

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

## NEVADA REPORT CARD 2012

*Nevada's human trafficking law, called involuntary servitude, does not expressly include sex trafficking and requires force, fraud, or coercion for all victims. Limited prosecution options and weak penalties fail to deter demand and few protective provisions exist for children exploited through commercial sex acts.*

FINAL SCORE

60

FINAL GRADE

D



4.5

10

13

25

13.5

15

6.5

10

12.5

27.5

10

15

### CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Nevada law requires “forced labor or services” for all cases of human trafficking and does not include sex trafficking of minors as a specific form of trafficking. The state commercial sexual exploitation of children (CSEC) laws include: soliciting prostitution from a minor under 18, pandering of a minor, employing or exhibiting minor in certain immoral activities, and unlawful use of a minor in producing pornography or as subject of sexual portrayal in performance. These laws do not refer to the human trafficking law or identify a victim as a sex trafficking victim. Nevada’s racketeering law does not include sex trafficking offenses, limiting its availability for prosecution of trafficking networks.

### CRIMINAL PROVISIONS ADDRESSING DEMAND

The absence of sex trafficking as a form of human trafficking in the law coupled with the lack of language directing application of the law to buyers of commercial sex with minors makes application to buyers unlikely. The solicitation for prostitution statute establishes a felony for buying sex with a minor but a convicted buyer may be given probation as a sentence. A potential exists for avoiding the felony charge of soliciting sex with a minor due to the lack of a prohibition on a mistake of age defense. The statute penalizing communications with a child with the intent to persuade or lure the child to engage in sexual conduct might apply to buyers using the Internet to contact victims. Buyers may be ordered to pay restitution, and victims of child pornography have a civil cause of action against buyers. Convictions for child pornography require sex offender registration, and buyers convicted of offenses involving a sexual act may be required to register, except in cases where the sexual act is with a minor over 12 who is not more than four years younger than the offender.

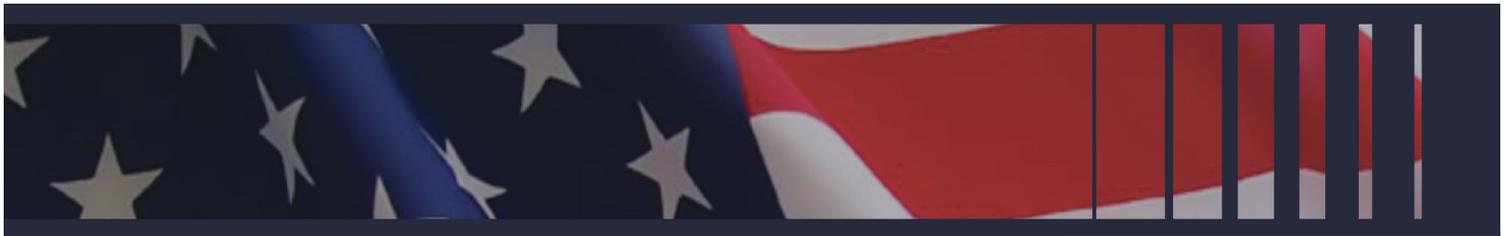
### CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of human trafficking may be sentenced to 5–20 years imprisonment (or 1–15 years for recruiting) and a possible fine up to \$50,000, and could be in violation of racketeering and money laundering laws. Convictions for pandering carry a 1–10 year sentence and possible fines up to \$100,000 if the victim is 14–17 or up to \$500,000 if the victim is under 14. Using a minor in pornography carries up to a life sentence and a possible fine up to \$100,000. Traffickers are subject to asset forfeiture. A trafficker may be ordered to pay victim restitution, and victims of child pornography offenses under 16 may bring a civil claim against a trafficker. The statute on communicating with a child with the intent to persuade or lure the child to engage in sexual conduct provides a means of prosecuting traffickers who use the Internet to recruit minors for illegal sex acts, which may include trafficking. Traffickers convicted of CSEC and child pornography offenses must register for crimes against a child and as sex offenders, and those convicted of a crime involving a sexual act may be required to register, except when the victim is over 12 and not more than 4 years younger than the offender. A conviction for human trafficking is grounds for terminating parental rights.

### DEMAND | SELECTED COMMERCIAL SEX CRIMES

| Crime<br>(name of law abridged)                                | Classification    | Sentence   | Fine         | Asset<br>Forfeiture<br>(available) |
|--|-------------------|--|--------------|------------------------------------|
| Solicitation for prostitution of a minor (§201.354(3))         | Category E felony | 1–4 years (can be suspended in favor of probation) | Max. \$5,000 | ●                                  |
| Offer or agree to engage in act of prostitution (§ 207.030(1)) | Misdemeanor       | Max. 6 months                                      | Max. \$1,000 | ●                                  |
| Possessing child pornography – child under 16 (§ 200.730)      | Category B felony | 1–6 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

Domestic minor sex trafficking victims are vulnerable due to gaps in Nevada’s laws. The definition of a victim for crime victim’s compensation expressly includes only victims of pornography, not other forms of commercial sexual exploitation of children. Involuntary servitude and CSEC offenses do not prohibit a defendant from asserting a defense that the minor consented to the commercial sex acts. Prostitution offenses are not limited in application to adults and do not identify a minor engaged in prostitution as a victim of sex trafficking, leaving open the possibility of a victim being arrested and charged with prostitution with no protective provisions statutorily mandated. The definition of abuse or neglect includes sexual exploitation through prostitution or pornography, but child protective services is limited from responding in a case of a trafficker-controlled child unless the trafficker is an adult “continually or regularly found in the same household as the child.” Only victims suffering a physical injury and those exploited through production of pornography are eligible for state crime victims’ compensation, and they may be adversely affected by requirements to file a claim within one year (or before turning 21 if a victim of child pornography) and to report the crime within five days of when a report could have reasonably been made unless “the interests of justice so require;” furthermore, they may have their claim reduced or denied due to contributory misconduct. Few victim-friendly criminal justice procedures exist. Testifying child sex trafficking and CSEC victims are not protected from the trauma of cross-examination by a “rape shield” law, and only children under 14 may testify through an “alternative method,” such as closed-circuit television. Juvenile records are automatically sealed once the minor reaches 21 and a child may petition at an earlier time. Though not mandatory, a court may award restitution in any criminal sentence. Victims of child pornography under 16 have a specific civil action against buyers, traffickers, and facilitators and the action may be filed by the later of reaching 21 or within three years of a conviction in the criminal case. Criminal statutes of limitations (three years for felonies, two years for gross misdemeanors, and one year for misdemeanors) are not extended or eliminated for child sex trafficking and CSEC crimes.

## CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

Nevada law mandates training on sexual exploitation of minors, but does not define sexual exploitation or mandate training on human trafficking. Nevada requires both parties to consent to audio-taping over the telephone, but allows single party consent to in-person communications. Wiretapping is not expressly authorized in sex trafficking or CSEC investigations, denying a critical tool to law enforcement. No specific statutory language allows law enforcement to use a decoy in domestic minor sex trafficking investigations, although the crime of luring a child under 16 for sexual acts may use a decoy because the offender need only to have believed the child to be under 16, foreclosing the argument that the intended victims was not, in fact, a child. Similarly, law enforcement may utilize the Internet to investigate cases where the offender believes the law enforcement officer is under 16. Reporting missing and exploited children and recovered children is required by law.

## CRIMINAL PROVISIONS FOR FACILITATORS

The state human trafficking law includes the crime of benefitting from participation in human trafficking, a felony punishable by 1–15 years imprisonment and a possible fine up to \$50,000. Given the lack of sex trafficking in the human trafficking law, CSEC laws that include offenses of facilitation may be more applicable. Facilitators may be guilty of pandering, punishable by 1–10 years imprisonment and fines up to \$100,000 if the victim is 14–17 and up to \$500,000 if the victim is under 14. Promoting a sexual performance by a minor is a felony punishable by a possible fine not to exceed \$100,000 and imprisonment up to life with parole eligibility only after 10 years if the victim is under 14, and 5 years if the victim is 14–17. Advertising or distributing child pornography is a felony punishable by 1–15 years imprisonment and/or a fine up to \$15,000. Facilitators’ criminal activities may also lead to racketeering and money laundering prosecutions. Convicted facilitators of CSEC and child pornography offenses are subject to asset forfeiture. Though not mandatory, a court could order a facilitator to pay restitution, and a facilitator could face a civil cause of action for violations related to child pornography offenses. No laws in Nevada 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](http://www.sharedhope.org).

