

PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

NEVADA REPORT CARD 2013

Nevada's human trafficking law, pandering and sex trafficking, expressly includes sex trafficking of minors and does not require force, fraud, or coercion. Minors are not immune from prosecution for prostitution, leaving open the possibility of a victim being arrested and charged with prostitution with no protective provisions statutorily mandated.

FINAL SCORE

82.5

FINAL GRADE

B



7.5
10

23.5
25

14.5
15

7
10

18
27.5

12
15

CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Nevada law includes sex trafficking of minors as a specific form of trafficking and does not require force, fraud, or coercion. The state commercial sexual exploitation of children (CSEC) laws include: soliciting prostitution from a minor under 18, 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. The prostitution law does not refer to the human trafficking law or identify a victim as a sex trafficking victim. Nevada's racketeering law includes sex trafficking and CSEC offenses.

CRIMINAL PROVISIONS ADDRESSING DEMAND

The state child sex trafficking law tracks the federal definition and could, following federal precedent, be applied to buyers who "obtain" a minor for prostitution. 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 buyer cannot assert a mistake of age defense in a prosecution for sex trafficking a child. 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 and sex trafficking 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.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

| Crime (name of law abridged) | Classification | Sentence | Fine | Asset Forfeiture (available) |
|---|----------------------|---|--|------------------------------------|
| Sex trafficking (§ 201.300) | Category A felony | 15 years-life (victim under 14); 10 years-life (victim 14-15); 5 years-life (victim 16-17) | Max, \$20,000; Max. \$10,000; Max. \$10,000 | |
| 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.

CRIMINAL PROVISIONS FOR TRAFFICKERS

Traffickers convicted of sex trafficking face life imprisonment when the victim is a minor, are subject to a possible fine up to \$500,000, and could be in violation of racketeering and money laundering laws. Convictions for involuntary servitude are punishable by up to 20 years imprisonment and possible fines up to \$50,000. 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 and additional fines for conspiracy. 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 sex trafficking, 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.



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Domestic minor sex trafficking victims are vulnerable due to gaps in Nevada’s laws. 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.” Sex trafficking victims, victims suffering a physical injury, and those exploited through production of pornography are eligible for state crime victims’ compensation, but 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. Trafficking victims may be allowed to testify through videotaped deposition, can apply for an issuance of a fictitious address, and are protected from the trauma of cross-examination by a “rape shield” law. Children under 14 may testify through closed-circuit television. Juvenile records are automatically sealed once the minor reaches 21 and a child may petition at an earlier time. A court may award restitution in any criminal sentence. Sex trafficking victims and 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 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 expressly to include sex trafficking. Nevada requires both parties to consent to audiotaping over the telephone, but allows single party consent to in-person communications. Wiretapping is expressly authorized in sex trafficking but not CSEC investigations. 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 sex trafficking law does not include the crime of benefitting from participation in human trafficking. However, the involuntary servitude law criminalizes benefitting from labor or services of a minor, which may include some commercial sex acts, and is a felony punishable by 15 years to life imprisonment and a possible fine up to \$50,000. Given the lack of language specific to conduct which involves facilitation in the sex trafficking law, CSEC laws that include offenses of facilitation may be more applicable. Facilitators may be guilty of living from earnings of a prostitute, punishable by 1–4 years imprisonment and fines up to \$5,000. 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 sex trafficking, 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.

