

# NEVADA

## REPORT CARD | 2018

Nevada's human trafficking law, "pandering and sex trafficking," expressly includes sex trafficking of minors and does not require force, fraud, or coercion. However, prostitution laws apply to minors under 18, meaning juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization.

Final Score

85.5

Final Grade

B



7.5

10

24

25

15

15

7.5

10

20

27.5

11.5

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. Nevada's commercial sexual exploitation of children (CSEC) laws include: "engaging in prostitution or solicitation for prostitution," "employing or exhibiting minor in certain injurious, immoral or dangerous activities," "unlawful to use minor in producing pornography or as subject of sexual portrayal in performance," and "facilitation of sex trafficking." The prostitution law does not refer to the human trafficking law to acknowledge the intersection of prostitution with trafficking victimization. Nevada's racketeering law includes sex trafficking and CSEC offenses.

## Criminal Provisions for Demand

Nevada's child sex trafficking law applies to buyers following federal precedent through the term "obtains." The "solicitation for prostitution" statute establishes a felony for buying sex, carrying penalties ranging from 1-4 years imprisonment and a fine up to \$5,000; however, a convicted buyer may be sentenced to probation unless the buyer has two previous convictions under the offense. Buyers convicted of child sex trafficking face life imprisonment, with fines ranging from \$10,000-\$500,000 and varying opportunities for parole depending on the age of the minor victim and any force used. 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 solicit, persuade, or lure the child to engage in sexual conduct applies to buyers using the Internet or electronic communications to contact victims. Buyers may be ordered to pay restitution and are subject to asset forfeiture. Financial penalties for trafficking and offenses involving images of child sexual exploitation (ICSE) are sufficiently high, making it difficult for buyers to hide the crime. Possession of ICSE also subjects buyers to asset forfeiture and civil claims. Convictions for ICSE, sex trafficking, and other non-commercial sex offenses require sex offender registration.

## Criminal Provisions for Traffickers

Child sex trafficking is punishable by up to life imprisonment and a fine up to \$500,000; additionally, traffickers could be in violation of racketeering and money laundering laws. Using a minor in the production of ICSE is punishable by life imprisonment and a possible fine up to \$100,000. Traffickers can be also charged with "living from earnings of a prostitute," which is punishable by 1-4 years imprisonment and a fine up to \$5,000. Financial penalties include fines, restitution, and asset forfeiture. 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 or electronic communications to recruit minors for illegal sex acts. Traffickers convicted of a crime against a child or a sexual offense must register 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 under the trafficking law may indirectly serve as grounds for terminating parental rights based on laws relating to reunification and sex offender registration.

## Criminal Provisions for Facilitators

The state sex trafficking law may apply to some facilitators but does not include the crime of benefitting from participation in human trafficking. Facilitators also may be guilty of facilitating sex trafficking under a separate statute, which is punishable by 3–10 years imprisonment, or of “living from earnings of prostitute,” which is punishable by 1–4 years imprisonment and a fine up to \$5,000. “Promoting a sexual performance by a minor” is a felony punishable by a fine up to \$100,000 and up to life imprisonment with parole eligibility only after 10 years if

the victim is under 14 (or after 5 years if the victim is 14–17). Advertising or distributing ICSE is a felony punishable by 1–15 years imprisonment and a fine up to \$15,000. Facilitators’ criminal activities may also lead to racketeering and money laundering prosecutions. Convicted facilitators of sex trafficking, CSEC, or ICSE offenses are subject to asset forfeiture, and a court could order a facilitator to pay restitution. A facilitator could also face a civil cause of action for violations related to ICSE offenses. Nevada law prohibits the sale and facilitation of child sex tourism.

## Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. The sex trafficking law prohibits a defendant from asserting a defense based on the willingness of the minor to engage in the commercial sex act. Prostitution offenses are not limited in application to adults, but for any minor charged with prostitution, the juvenile court must order specialized services and placement, when needed, for the child without entering a delinquency adjudication. Although child sex trafficking is not included within the definition of abuse or neglect, sexual exploitation through prostitution or production of ICSE is included. However, “person responsible for a child’s welfare” is defined as an adult “continually or regularly found in the same household as the child,” which presents a barrier to child welfare intervention in non-familial trafficking cases. Sex trafficking victims, victims who suffered a physical injury, and those exploited through production of ICSE 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 ICSE) 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 de-

nied due to contributory misconduct. Trafficking victims may be allowed to testify through videotaped deposition, are permitted to apply for a fictitious address, and may be protected from the trauma of cross-examination by a “rape shield” law. Additionally, children under 14 may testify through closed-circuit television. Nevada law does not provide a mechanism for minors to vacate delinquency adjudications related to trafficking victimization, but juvenile records may be sealed after a waiting period. A court must consider awarding restitution in any criminal case. Sex trafficking victims may bring a civil claim against any person who caused or profited from the human trafficking, and the action may be filed within 20 years after turning 18, after a conviction in the criminal case, or after the victim should have “reasonably discovered” that he or she was a victim of human trafficking. Victims of ICSE offenses who are under 16 have a specific civil action against buyers, traffickers, and facilitators and are entitled to damages of at least \$150,000 plus attorney’s fees. For criminal prosecutions where a sex trafficking victim files a written report with law enforcement within four years, the offender can be charged at any time.

## Criminal Justice Tools for Investigation and Prosecution

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 audio-taping over the telephone but allows single party consent to in-person communications. Wiretapping is expressly authorized in investigations of sex trafficking and “sexual offenses against a child.” No sex trafficking or CSEC law expressly prohibits a defense to prosecution based on the use of a law enforcement decoy posing as a minor for investigatory purposes; however, the

crime of “luring a child under 16 for sexual acts,” a non-CSEC offense, permits the use of a decoy because the offender need only believe the child to be under 16, foreclosing the argument that the intended victim was not in fact a child and thereby prohibiting a defense on that ground. Also, law enforcement may utilize the Internet or electronic communications to investigate cases where the offender seeks to engage a child under 16 in sexual conduct. Reporting missing and exploited children and located children is required by law.

*The Report Card is based on the Protected Innocence Challenge Legislative Framework, an analysis of state laws performed by Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Challenge Legislative Framework Methodology, all state Report Cards, and foundational analysis and recommendations, please visit: [www.sharedhope.org/reportcards](http://www.sharedhope.org/reportcards).*