

# PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

## Nevada Report Card 2016

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, and juvenile sex trafficking victims face criminalization for commercial sex acts committed as a result of their victimization with no protective provisions statutorily mandated.

Final Score

83.5

Final Grade

B



7.5

10

24

25

12.5

15

7

10

21

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 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 to acknowledge the intersection of prostitution with trafficking victimization. Nevada's racketeering law includes sex trafficking and CSEC offenses.

### Criminal Provisions Addressing Demand

Nevada's 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 until the third conviction. A buyer cannot assert an age mistake 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. Possession of child pornography also subjects buyers to asset forfeiture and civil claims. 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.

### Criminal Provisions for Traffickers

Sex trafficking a minor is punishable by up to life imprisonment and a possible fine up to \$500,000; additionally, traffickers could be in violation of racketeering and money laundering laws. Using a minor in pornography is punishable by up to 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. Additionally, 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 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 of sex trafficking is not a ground to be considered when evaluating the fitness of a parent.

#### 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.



## 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 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 pornography 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 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, are permitted to apply for an issuance of a fictitious address, and are protected from the trauma of cross-examination by a “rape shield” law. Additionally, 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 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 three 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 child pornography 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, if 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 audiotaping 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 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. 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 recovered children is required by law.

## 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. 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, 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 possible fine not to exceed \$100,000 and up to life imprisonment with parole eligibility only after 10 years if the victim is under 14 or 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, or child pornography 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 child pornography offenses. No Nevada law addresses sex tourism.

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).