

SENATE BILL NO. 293—SENATOR RATTI

MARCH 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to children who are victims of commercial sexual exploitation. (BDR 38-517)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 5, 6, 11, 12)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to protection of children; establishing a commercially sexually exploited children endorsement that may be obtained by a provider of foster care; prescribing requirements for obtaining and renewing such an endorsement; prohibiting the arrest of a commercially sexually exploited child in certain circumstances; requiring a determination about whether such a child is in need of protection; requiring an agency which provides child welfare services to establish and carry out a plan to provide comprehensive, individualized services to commercially sexually exploited children; requiring a juvenile court and certain other entities in the juvenile justice system to transfer a commercially sexually exploited child to the child welfare system in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill addresses commercially sexually exploited children. **Section 9** of this
2 bill defines the term “commercially sexually exploited child” as a child who is
3 subjected to sex trafficking, sexual abuse or sexual exploitation for the financial
4 benefit of any person or in exchange for anything of value.

5 Existing law provides for the licensure of foster homes. (NRS 424.020-
6 424.090) **Section 5** of this bill allows a provider of foster care to apply for and



* 5 8 2 9 3 *

7 obtain a commercially sexually exploited child endorsement for the license to
8 operate a foster home, which authorizes the holder to provide a therapeutic
9 environment to address the needs of commercially sexually exploited children and
10 to coordinate with the agency which provides child welfare services for the
11 provision of mental health and other services needed to assist commercially
12 sexually exploited children. **Section 5** sets forth the requirements for obtaining and
13 renewing such an endorsement, including an annual inspection of the foster home
14 to which the endorsement applies and completion of training provided by the
15 licensing authority.

16 **Section 6** of this bill requires each licensing authority to cooperate with other
17 agencies to recruit and encourage providers of foster care to apply for a
18 commercially sexually exploited children endorsement. **Section 6** also requires the
19 licensing authority to provide intensive training for providers of foster care that
20 wish to obtain an endorsement. **Section 6** also authorizes the Division of Child and
21 Family Services of the Department of Health and Human Services to adopt
22 regulations concerning the requirement for a commercially sexually exploited
23 children endorsement. **Section 7** of this act makes a conforming change.

24 **Section 12** of this bill provides that a commercially sexually exploited child
25 may not be arrested or taken to a juvenile detention facility or other facility within
26 the juvenile justice system regardless of whether the child may have committed an
27 act that would be a crime if committed by an adult, so long as the act was not
28 violent. Instead, a determination must be made for such a child about whether the
29 child is in need of protection and should be placed in protective custody. **Section 12**
30 additionally requires an agency which provides child welfare services that
31 determines that such a child is in need of protection and takes the child into
32 protective custody to take certain actions including placing the child in a foster
33 home that has a commercially sexually exploited children endorsement, if
34 available, and immediately assigning a caseworker to coordinate services for the
35 child. **Section 13** of this bill requires each agency which provides child welfare
36 services to establish and implement a plan to provide comprehensive,
37 individualized services to commercially sexually exploited children. **Sections 14**
38 **and 15** of this bill make conforming changes.

39 **Section 16** of this bill prohibits a juvenile court which finds that a
40 commercially sexually exploited child committed a nonviolent act that would be a
41 crime if committed by an adult from adjudicating the child as a delinquent child or
42 a child in need of supervision based on that act. Instead, the court is required to
43 transfer the child to an agency which provides child welfare services for a
44 determination whether the child is in need of protection and services. **Section 16**
45 further requires a juvenile justice agency that has reasonable cause to believe that a
46 child in its custody is or has been a commercially sexually exploited child to
47 transfer the child to the custody of an agency which provides child welfare services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 424 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meanings ascribed to them in*
7 *those sections.*



1 **Sec. 3.** *“Commercially sexually exploited child” has the*
2 *meaning ascribed to it in section 9 of this act.*

3 **Sec. 4.** *“Commercially sexually exploited children*
4 *endorsement” means a commercially sexually exploited children*
5 *endorsement obtained by a provider of foster care pursuant to*
6 *section 5 of this act.*

7 **Sec. 5. 1.** *A provider of foster care may apply to a licensing*
8 *authority for a commercially sexually exploited children*
9 *endorsement to allow the holder of the endorsement to:*

10 *(a) Provide a therapeutic environment to address the needs of*
11 *commercially sexually exploited children; and*

12 *(b) Coordinate with the agency which provides child welfare*
13 *services for the provision of mental health and other services*
14 *needed to assist any commercially sexually exploited child who is*
15 *in the care of the provider.*

16 **2.** *The application for a commercially sexually exploited*
17 *children endorsement and the application for the renewal of such*
18 *an endorsement must be in a form prescribed by the licensing*
19 *authority.*

20 **3.** *Before issuing or renewing a commercially sexually*
21 *exploited children endorsement, the licensing authority must*
22 *inspect the foster home of the applicant to determine whether the*
23 *foster home is suitable to care for commercially sexually exploited*
24 *children and to provide the services described in subsection 1.*

25 **4.** *A licensing authority shall issue a commercially sexually*
26 *exploited children endorsement or renew such an endorsement if:*

27 *(a) The applicant completes the application;*

28 *(b) Any foster home of the applicant to which the endorsement*
29 *will apply has been inspected and determined suitable as set forth*
30 *in subsection 3;*

31 *(c) The applicant has completed the training provided by the*
32 *licensing authority pursuant to section 6 of this act and any other*
33 *training required by regulation;*

34 *(d) The licensing authority determines that the applicant will*
35 *comply with the requirements of sections 2 to 6, inclusive, of this*
36 *act; and*

37 *(e) The applicant satisfies any other requirements set forth in*
38 *regulations adopted by the Division pursuant to section 6 of this*
39 *act.*

40 **5.** *If a licensing authority finds that an applicant does not*
41 *meet the requirements for a sexually exploited children*
42 *endorsement, the licensing authority must notify the applicant in*
43 *writing with the reasons for the denial. An applicant may reapply*
44 *for the endorsement.*



6. A sexually exploited children endorsement must identify the provider of foster care to whom it is issued and the foster home to which it applies and indicate the period for which the endorsement is valid.

Sec. 6. 1. Each licensing authority shall work with local agencies, service providers and other governmental entities to recruit and encourage providers of foster care to apply for a commercially sexually exploited children endorsement.

2. A licensing authority shall provide intensive training for providers of foster care that wish to obtain a commercially sexually exploited children endorsement. Such training must include, without limitation, training concerning the special needs of commercially sexually exploited children, the effects of trauma and sexual exploitation on children and the manner in which to address those issues using approaches that are based on encouraging strength and which consider the trauma that has been experienced by the children.

3. The Division may, in consultation with each agency which provides child welfare services, adopt any regulations necessary to carry out the provisions of sections 2 to 6, inclusive, of this act. Such regulations may include, without limitation, the amount of required training and any additional requirements to obtain a commercially sexually exploited children endorsement.

Sec. 7. NRS 424.090 is hereby amended to read as follows:

424.090 1. The provisions of NRS 424.020 to 424.090, inclusive, *and sections 2 to 6, inclusive, of this act* do not apply to homes in which:

(a) Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

(b) Care is provided by the legal guardian.

(c) Care is provided for an exchange student.

(d) Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

(e) Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

(f) Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is related to the caregiver by blood, adoption or marriage.

(g) Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS or a juvenile court pursuant to title 5 of NRS if:



(1) The caregiver is related to the child within the fifth degree of consanguinity or a fictive kin; and

(2) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~H~~, and sections 2 to 6, inclusive, of this act.

2. As used in this section, "fictive kin" means a person who is not related by blood to a child but has a significant emotional and positive relationship with the child.

Sec. 8. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 13, inclusive, of this act.

Sec. 9. *"Commercially sexually exploited child" means any child who is sex trafficked in violation of NRS 201.300, sexually abused or sexually exploited for the financial benefit of any person or in exchange for anything of value, including, without limitation, monetary or nonmonetary benefits given or received by any person.*

Sec. 10. *"Sexual abuse" has the meaning ascribed to it in NRS 432B.100.*

Sec. 11. *"Sexually exploited" has the meaning ascribed to it in NRS 432B.110.*

Sec. 12. 1. *If an agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services, or a designee of an agency which provides child welfare services has reasonable cause to believe that a child is a commercially sexually exploited child, the child must not be arrested or taken to a juvenile detention facility or other facility within the juvenile justice system regardless of whether the child may have committed an act that would be a crime if committed by an adult, so long as any such act was not violent.*

2. *A determination must be made pursuant to NRS 432B.330 whether a child described in subsection 1 is in need of protection and should be taken into protective custody in accordance with the provisions of NRS 432B.390. If the child is taken into protective custody and the agency which provides child welfare services has reasonable cause to believe that the child is or may have been a commercially sexually exploited child:*

(a) If the child was taken from a person other than the parent or guardian of the child, the agency shall, as soon as practicable, attempt to identify and notify any parent or guardian of the child of the hearing required by NRS 432B.470;

(b) If the child is placed with someone other than the parent or guardian of the child, the child must be placed with a provider of foster care that has a commercially sexually exploited children



endorsement, if available, or another home or placement that is capable of providing mental health services, counseling or other specialized services that may be necessary or appropriate for the child; and

(c) The agency which provides child welfare services shall immediately assign a caseworker to coordinate with local service providers and the Division to ensure that services are provided to the child which are designed to address the immediate and long term needs of the child for rehabilitation and treatment, including, without limitation, services to address any medical, psychiatric or psychological issues of the child and to address any safety and housing needs of the child.

3. The caseworker assigned pursuant to subsection 2 may coordinate for the child to receive, as necessary:

(a) Medical and mental health services.

(b) Substance abuse screening and treatment.

(c) Counseling for the child and his or her family.

(d) Treatment and intervention for sexual assault.

(e) Education tailored to the needs of the child.

(f) Job and life skills training.

(g) Mentoring.

(h) Individualized services based on the trauma endured by the child, as determined through comprehensive screening assessments of the service needs of the child.

(i) Legal and immigration services.

(j) Victim compensation.

(k) Services and staff that are available 24 hours a day.

Sec. 13. 1. Each agency which provides child welfare services shall establish and carry out a plan to provide comprehensive, individualized services to address the rehabilitation and treatment needs of commercially sexually exploited children through the child welfare system.

2. The plan must include coordinating with state and local law enforcement agencies, state agencies and service providers to:

(a) Identify commercially sexually exploited children who are eligible to receive services; and

(b) Provide such children with access to appropriate services.

Sec. 14. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, **and sections 9, 10 and 11 of this act** have the meanings ascribed to them in those sections.

Sec. 15. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the



1 local department of juvenile services, or a designee of an agency
2 which provides child welfare services:

3 (a) May place a child in protective custody without the consent
4 of the person responsible for the child's welfare if the agent, officer
5 or designee has reasonable cause to believe that immediate action is
6 necessary to protect the child from injury, abuse or neglect.

7 (b) Shall place a child in protective custody upon the death of a
8 parent of the child, without the consent of the person responsible for
9 the welfare of the child, if the agent, officer or designee has
10 reasonable cause to believe that the death of the parent of the child
11 is or may be the result of an act by the other parent that constitutes
12 domestic violence pursuant to NRS 33.018.

13 2. When an agency which provides child welfare services
14 receives a report pursuant to subsection 2 of NRS 432B.630, a
15 designee of the agency which provides child welfare services shall
16 immediately place the child in protective custody.

17 3. If there is reasonable cause to believe that the death of a
18 parent of a child is or may be the result of an act by the other parent
19 that constitutes domestic violence pursuant to NRS 33.018, a
20 protective custody hearing must be held pursuant to NRS 432B.470,
21 whether the child was placed in protective custody or with a
22 relative. If an agency other than an agency which provides child
23 welfare services becomes aware that there is reasonable cause to
24 believe that the death of a parent of a child is or may be the result of
25 an act by the other parent that constitutes domestic violence
26 pursuant to NRS 33.018, that agency shall immediately notify the
27 agency which provides child welfare services and a protective
28 custody hearing must be scheduled.

29 4. An agency which provides child welfare services shall
30 request the assistance of a law enforcement agency in the removal of
31 a child if the agency has reasonable cause to believe that the child or
32 the person placing the child in protective custody may be threatened
33 with harm.

34 5. Before taking a child for placement in protective custody,
35 the person taking the child shall show his or her identification to any
36 person who is responsible for the child and is present at the time the
37 child is taken. If a person who is responsible for the child is not
38 present at the time the child is taken, the person taking the child
39 shall show his or her identification to any other person upon request.
40 The identification required by this subsection must be a single card
41 that contains a photograph of the person taking the child and
42 identifies the person as a person authorized pursuant to this section
43 to place a child in protective custody.

44 6. A child placed in protective custody pending an
45 investigation and a hearing held pursuant to NRS 432B.470 must be



placed, except as otherwise provided in NRS 432B.3905 **H and section 12 of this act**, in the following order of priority:

(a) In a hospital, if the child needs hospitalization.

(b) With a person who is related within the fifth degree of consanguinity or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(c) In a foster home that is licensed pursuant to chapter 424 of NRS.

(d) In any other licensed shelter that provides care to such children.

7. Whenever possible, a child placed pursuant to subsection 6 must be placed together with any siblings of the child. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.

8. A person placing a child in protective custody pursuant to subsection 1 shall:

(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;

(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody; and

(c) As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency, except that if the placement violates the provisions of NRS 432B.3905, the person shall immediately provide such notification.

9. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

10. As used in this section, "fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 16. Chapter 62C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a court finds that a child, while a commercially sexually exploited child, committed a nonviolent act that would be a crime if committed by an adult the court shall not adjudicate the child as a delinquent child or a child in need of supervision based on that act. Upon such a finding, the court shall refer the child to an agency which provides child welfare services for a determination of whether the child is in need of protection and services related to the commercial sexual exploitation.

2. A juvenile justice agency that has reasonable cause to believe that a child in its custody is or has been a commercially



1 *sexually exploited child shall request the court to transfer the child*
2 *to the custody of an agency which provides child welfare services.*

3 3. *As used in this section:*

4 (a) *“Commercially sexually exploited child” has the meaning*
5 *ascribed to it in section 9 of this act.*

6 (b) *“Juvenile justice agency” means the Youth Parole Bureau*
7 *or a director of juvenile services.*

8 **Sec. 17.** The provisions of NRS 354.599 do not apply to any
9 additional expenses of a local government that are related to the
10 provisions of this act.

