

SENATE BILL NO. 389—SENATOR SCHEIBLE

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to crimes. (BDR 15-133)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to crimes; revising provisions governing crimes relating to facilitating sex trafficking; requiring certain entities to work collaboratively to prepare and submit a comprehensive biennial report concerning human trafficking in this State; revising certain requirements for compensation from the Fund for the Compensation of Victims of Crime; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a person commits the crime of facilitating sex trafficking if the person: (1) facilitates, arranges, provides or pays for the transportation of a person to or within this State with the intent of inducing that person to engage in unlawful sexual conduct or prostitution or, if that person is a child, certain acts relating to pornography involving minors; (2) sells travel services that facilitate the travel of another person to this State with the knowledge that the other person is traveling to this State for the purpose of engaging in sexual conduct with a victim of sex trafficking, soliciting a child who is a victim of sex trafficking or engaging in certain acts relating to pornography involving minors; or (3) travels to or within this State by any means with the intent of engaging in sexual conduct with a victim of sex trafficking with the knowledge that the victim has been induced to engage in sexual conduct or prostitution or engaging in certain acts relating to pornography involving minors. A person who commits the crime of facilitating sex trafficking is guilty of a category B felony and is subject to certain minimum and maximum terms of imprisonment depending on whether the victim is an adult or child. (NRS 201.301)

Sections 1-3 of this bill provide that a person who commits the crime of facilitating sex trafficking is subject to the same penalties that apply under existing law for committing the crime against a child if the person commits the crime against a peace officer who is posing as a child or a person who is assisting in an investigation on behalf of a peace officer by posing as a child. **Section 7** of this bill makes a conforming change to provisions of existing law that contain references to



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the crime of facilitating sex trafficking of a child to reflect the changes made in sections 1-3.

Existing law requires the payment of compensation from the Fund for the Compensation of Victims of Crime to certain victims of criminal acts and requires an application for such compensation from the Fund to be filed not later than 24 months after the injury or death for which compensation is claimed. (NRS 217.100, 217.180, 217.260) Section 5 of this bill creates an exception to this time limit by authorizing a person who is a victim of sex trafficking or facilitating sex trafficking to file an application for compensation from the Fund not later than 60 months after the injury or death for which compensation is claimed. Section 4 of this bill requires certain entities to work collaboratively to prepare and submit a comprehensive biennial report on human trafficking in this State. Section 6 of this bill makes a conforming change to indicate the proper placement of section 4 in the Nevada Revised Statutes.

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

Section 1. NRS 201.295 is hereby amended to read as follows:
201.295 As used in NRS 201.295 to 201.440, inclusive, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. *"Adult posing as a child" means an adult who is:*

(a) A peace officer who is posing as a child; or

(b) A person who is assisting in an investigation on behalf of a peace officer by posing as a child.

3. "Child" means a person less than 18 years of age.

~~[3.]~~ 4. "Induce" means to persuade, encourage, inveigle or entice.

~~[4.]~~ 5. *"Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.*

6. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

~~[5.]~~ 7. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

~~[6.]~~ 8. "Sexual conduct" means any of the acts enumerated in subsection ~~[4.]~~

~~—7.]~~ 6.

9. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.



1 **Sec. 2.** NRS 201.301 is hereby amended to read as follows:
2 201.301 1. A person is guilty of facilitating sex trafficking if
3 the person:

4 (a) Facilitates, arranges, provides or pays for the transportation
5 of a person to or within this State with the intent of:

6 (1) Inducing the person to engage in prostitution in violation
7 of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of
8 NRS 201.300;

9 (2) Inducing the person to enter any place within this State in
10 which prostitution is practiced, encouraged or allowed for the
11 purpose of sexual conduct or prostitution in violation of
12 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS
13 201.300; or

14 (3) If the person is a child, using the person for any act that is
15 prohibited by NRS 200.710 or 200.720 ~~or~~ *or, if the person is an*
16 *adult posing as a child, using the person for any act that would be*
17 *prohibited by NRS 200.710 or 200.720 if the person actually were*
18 *a child;*

19 (b) Sells travel services that facilitate the travel of another
20 person to this State with the knowledge that the other person is
21 traveling to this State for the purpose of:

22 (1) Engaging in sexual conduct with a person who has been
23 induced to engage in sexual conduct or prostitution in violation of
24 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of
25 NRS 201.300;

26 (2) Soliciting a child *or an adult posing as a child* who has
27 been induced to engage in sexual conduct or prostitution in violation
28 of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of
29 NRS 201.300; or

30 (3) Engaging in any act involving a child that is prohibited
31 by NRS 200.710 or 200.720 ~~or~~ *or, if the person is an adult posing*
32 *as a child, engaging in any act that would be prohibited by NRS*
33 *200.710 or 200.720 if the person actually were a child;* or

34 (c) Travels to or within this State by any means with the intent
35 of engaging in:

36 (1) Sexual conduct with a person who has been induced to
37 engage in sexual conduct or prostitution in violation of
38 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS
39 201.300, with the knowledge that such a person has been induced to
40 engage in such sexual conduct or prostitution; or

41 (2) Any act involving a child that is prohibited by NRS
42 200.710 or 200.720 ~~or~~ *or, if the person is an adult posing as a*
43 *child, any act that would be prohibited by NRS 200.710 or 200.720*
44 *if the person actually were a child.*



2. A person who is found guilty of facilitating sex trafficking is guilty of a category B felony and:

(a) ~~[[Except as otherwise provided in paragraph (b), if the victim is [18 years of age or older,] an adult,~~ shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(b) If the victim is ~~[less than 18 years of age,] a child or an adult posing as a child,~~ shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years.

Sec. 3. NRS 201.352 is hereby amended to read as follows:

201.352 1. If a person is convicted of a violation of subsection 2 of NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the victim of the violation is a child *or an adult posing as a child* when the offense is committed and physical force or violence or the immediate threat of physical force or violence is used upon the child ~~[] or an adult posing as a child,~~ the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than \$500,000.

2. If a person is convicted of a violation of subsection 2 of NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the victim of the offense is a child *or an adult posing as a child* when the offense is committed and the offense also involves a conspiracy to commit a violation of subsection 2 of NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the court may, in addition to the punishment prescribed by statute for the offense of a provision of subsection 2 of NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395 and any fine imposed pursuant to subsection 1, impose a fine of not more than \$500,000.

3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

Sec. 4. Chapter 217 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before July 1 of each even-numbered year, each entity designated pursuant to subsection 3 shall work collaboratively to prepare a comprehensive report concerning human trafficking in this State and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Joint Interim Standing Committee on the Judiciary.

2. The report required by subsection 1 must include, without limitation:



(a) *The annual operating budget of each entity designated pursuant to subsection 3;*

(b) *A copy of any written policy adopted by an entity designated pursuant to subsection 3 concerning:*

(1) *The identification of victims of human trafficking;*

(2) *Referrals to resources for victims of human trafficking;*
and

(3) *The detention or citation of victims of human trafficking;*

(c) *Information concerning the delivery of services for victims of human trafficking, which must include, without limitation:*

(1) *A description of the services that were provided by each entity during the immediately preceding biennium;*

(2) *A description of the efforts made by each entity during the immediately preceding biennium to locate victims in need of such services and provide such services to those victims;*

(3) *The number of victims served by each entity during the immediately preceding biennium; and*

(4) *The number of victims who were:*

(I) *Served by an entity during the immediately preceding biennium; and*

(II) *Arrested or issued a citation during the immediately preceding biennium for conduct related to human trafficking;*

(d) *Information relating to the prosecution of human trafficking in this State, including, without limitation:*

(1) *The number of arrests made concerning human trafficking during the immediately preceding biennium; and*

(2) *The number of charges filed concerning human trafficking and the disposition of those cases; and*

(e) *Policy recommendations for decreasing human trafficking in this State.*

3. *The following entities must work collaboratively to prepare and submit the report required by subsection 1:*

(a) *The State of Nevada Human Trafficking Coalition;*

(b) *The Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children;*

(c) *The Nevada Policy Council on Human Trafficking, or its successor organization;*

(d) *Each local human trafficking task force;*

(e) *Each recipient of an allocation of money from the Contingency Account; and*

(f) *Any other entity designated by the Chair of the Joint Interim Standing Committee on the Judiciary on or before January 1 of an even-numbered year.*



4. Each law enforcement agency in this State shall collaborate with the entities designated pursuant to subsection 3 to carry out the duties prescribed in this section.

5. As used in this section:

(a) “Contingency Account” means the Contingency Account for Victims of Human Trafficking created by NRS 217.530.

(b) “Local human trafficking task force” includes, without limitation:

(1) The Northern Nevada Human Trafficking Task Force, or its successor organization; and

(2) The Southern Nevada Human Trafficking Task Force, or its successor organization.

(c) “Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children” means the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children established by the Governor pursuant to Executive Order 2016-14, issued on May 31, 2016.

(d) “State of Nevada Human Trafficking Coalition” means the State of Nevada Human Trafficking Coalition formed pursuant to NRS 217.098.

Sec. 5. NRS 217.100 is hereby amended to read as follows:

217.100 1. Except as otherwise provided in subsection 5, any person eligible for compensation under the provisions of NRS 217.010 to 217.270, inclusive, may apply to the Director for such compensation not later than 24 months after the injury or death for which compensation is claimed ~~or~~ *or, for a person who is a victim of sex trafficking or facilitating sex trafficking, not later than 60 months after the injury or death for which compensation is claimed*, unless waived by the Director or a person designated by the Director for good cause shown, and the personal injury or death was the result of an incident or offense that was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within 5 days of the time when a report could reasonably have been made.

2. An order for the payment of compensation must not be made unless the application is made within the time set forth in subsection 1.

3. Where the person entitled to make application is:

(a) A minor, the application may be made on his or her behalf by a parent or guardian.

(b) Mentally incapacitated, the application may be made on his or her behalf by a parent, guardian or other person authorized to administer his or her estate.

4. The applicant must submit with his or her application the reports, if reasonably available, from all physicians who, at the time



1 of or subsequent to the victim's injury or death, treated or examined
2 the victim in relation to the injury for which compensation is
3 claimed.

4 5. The limitations upon payment of compensation established
5 in subsection 1 do not apply to a minor who is sexually abused or
6 who is involved in the production of pornography. Such a minor
7 must apply for compensation before reaching 21 years of age.

8 **6. As used in this section:**

9 (a) *"Facilitating sex trafficking" means a violation of*
10 *NRS 201.301.*

11 (b) *"Sex trafficking" means a violation of subsection 2 of*
12 *NRS 201.300.*

13 **Sec. 6.** NRS 217.500 is hereby amended to read as follows:

14 217.500 As used in NRS 217.500 to 217.540, inclusive, *and*
15 *section 4 of this act*, unless the context otherwise requires, the
16 words and terms defined in NRS 217.510 and 217.520 have the
17 meanings ascribed to them in those sections.

18 **Sec. 7.** NRS 432C.150 is hereby amended to read as follows:

19 432C.150 1. Information maintained by an agency which
20 provides child welfare services must be maintained by the agency
21 which provides child welfare services as required by federal law as a
22 condition of the allocation of federal money to this State.

23 2. Except as otherwise provided in this section, information
24 maintained by an agency which provides child welfare services
25 may, at the discretion of the agency which provides child welfare
26 services, be made available only to:

27 (a) A physician, if the physician has before him or her a child
28 who the physician has reasonable cause to believe is a commercially
29 sexually exploited child;

30 (b) A person authorized to place a child in protective custody, if
31 the person has before him or her a child who the person has
32 reasonable cause to believe is a commercially sexually exploited
33 child and the person requires the information to determine whether
34 to place the child in protective custody;

35 (c) An agency, including, without limitation, an agency in
36 another jurisdiction, responsible for or authorized to undertake the
37 care, treatment or supervision of:

38 (1) The child; or

39 (2) The person responsible for the welfare of the child;

40 (d) A district attorney or other law enforcement officer who
41 requires the information in connection with an investigation or
42 prosecution of the commercial sexual exploitation of a child;

43 (e) A court other than a juvenile court, for in camera inspection
44 only, unless the court determines that public disclosure of the
45 information is necessary for the determination of an issue before it;



(f) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

(g) The attorney and the guardian ad litem of the child, if the information is reasonably necessary to promote the safety, permanency and well-being of the child;

(h) Except as otherwise provided in subsection 4, a federal, state or local governmental entity, or an agency of such an entity, or a juvenile court, that needs access to the information to carry out its legal responsibilities to protect children from commercial sexual exploitation;

(i) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(j) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the commercial sexual exploitation of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;

(k) The persons or agent of the persons who are the subject of a report, if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons; or

(l) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency.

3. Before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports that a child is a commercially sexually exploited child and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged commercial sexual exploitation of a child or the life or safety of any person.

4. An agency which provides child welfare services shall not provide information maintained by the agency which provides child welfare services to a juvenile court only to facilitate a determination by the court related to the adjudication of a child who is accused of:

(a) Sex trafficking a child in violation of NRS 201.300; or



(b) Facilitating sex trafficking of a child *or an adult posing as a child, as defined in NRS 201.295*, in violation of NRS 201.301.

5. The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.

6. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

7. Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.

8. Except as otherwise provided in this subsection, any person who is provided with information maintained by an agency which provides child welfare services and who further disseminates the information or makes the information public is guilty of a gross misdemeanor. This subsection does not apply to a district attorney or other law enforcement officer who uses the information solely for the purpose of initiating legal proceedings against any person alleged to be the perpetrator of the commercial sexual exploitation of a child.

9. An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.

10. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.

11. As used in this section, “parent” has the meaning ascribed to it in NRS 432B.080.

Sec. 8. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 9. This act becomes effective on July 1, 2023.

