

# NEBRASKA

## REPORT CARD | 2017

Nebraska law criminalizes sex trafficking of a minor without requiring proof of force, fraud, or coercion or third party control. Minors cannot be charged with prostitution; however, specialized services and housing are not statutorily mandated. Sex offender registration is required for offenders convicted of CSEC offenses, but not sex trafficking.

Final Score

86

Final Grade

B



10

10

24

25

12

15

7.5

10

20.5

27.5

12

15

## Criminalization of Domestic Minor Sex Trafficking

Nebraska's human trafficking law separately criminalizes the sex trafficking of a minor under 18 without regard to the use of force, fraud, or coercion. Five commercial sexual exploitation of children (CSEC) laws are available to prosecute offenders: "child abuse," "pandering," "solicitation of prostitution," "keeping a place of prostitution," and "Child Pornography Prevention Act." The prostitution law refers to the human trafficking law to provide an affirmative defense to trafficking victims, acknowledging the intersection of prostitution with trafficking victimization. Nebraska's racketeering law includes human trafficking and CSEC laws in the definition of racketeering.

## Criminal Provisions for Demand

The human trafficking law applies to buyers through the terms "solicit" and "cause" and, following federal precedent, through the term "obtain." Buyers face prosecution for CSEC under Nebraska's "pandering" and "solicitation of prostitution" laws; the latter differentiates buying sex with adults versus minors. Buyers convicted of child sex trafficking face 20 years to life imprisonment and a fine up to \$20,000, while convictions under the CSEC offenses carry penalties that range from 1-50 years imprisonment. Nebraska's human trafficking offense prohibits a mistake of age defense, but state CSEC laws do not. Nebraska's laws relating to use of the Internet to "entice" or "sexually assault a child under 16" criminalize use of the Internet to coax or lure a child for the purpose of committing certain sex offenses. Financial penalties under the trafficking and CSEC offenses include fines and forfeiture, making it difficult for buyers to hide the crime. Restitution may be ordered under general criminal restitution laws but is not mandatory for human trafficking or CSEC offenses. Penalties for purchasing images of child sexual exploitation (ICSE) include a \$25,000 fine, 4 years imprisonment, and asset forfeiture. Buyers convicted of "pandering," "entice by electronic communication," or possessing ICSE are required to register as sex offenders, but registration is not required for sex trafficking convictions.

## Criminal Provisions for Traffickers

Human trafficking is a felony punishable by 20 years to life imprisonment. "Pandering" of a minor is a Class II felony punishable by 1-50 years. "Child abuse" is a Class I misdemeanor punishable by up to 1 year imprisonment and/or a fine up to \$1,000, but the fine may be enhanced to \$10,000 if the offense was committed negligently or knowingly and if serious bodily injury resulted. At most, "child abuse" is a felony punishable by 1-50 years imprisonment. Exploiting a child for the purpose of producing ICSE is a felony punishable by 3-50 years imprisonment. Asset forfeiture is a financial penalty for trafficking or CSEC crimes, but restitution is not mandatory though convicted traffickers may have to pay victim restitution for physical injury or property loss. Victims of ICSE may file civil claims. Laws related to using the Internet to entice or sexually assault a child under 16 may be used to prosecute traffickers who increasingly use the Internet to recruit and sell minors for commercial sex acts. Traffickers convicted of a number of sexual offenses, including "pandering" and "child abuse," are required to register as sex offenders, but registration is not required for sex trafficking convictions. Convictions for CSEC and human trafficking do not constitute grounds for terminating parental rights.

## Criminal Provisions for Facilitators

The human trafficking law includes the crime of financially benefiting from the sex trafficking of a child, and facilitators convicted under this offense face asset forfeiture and up to 20 years imprisonment. The CSEC offenses of “pandering” and “keeping a place of prostitution” could also reach the actions of some facilitators. Facilitators may be convicted under racketeering laws,

leading to further liability. Distributing ICSE is a Class ID felony punishable by imprisonment for 3–50 years and property forfeiture. Facilitators do not face mandatory restitution, and no asset forfeiture provisions apply to facilitators; however, facilitators who aid in creating or distributing ICSE may face civil liability. No laws in Nebraska address sex tourism.



## Protective Provisions for the Child Victims

All commercially sexually exploited children are defined as juvenile sex trafficking victims. Further, Nebraska’s human trafficking law prohibits a defense based on the willingness of a minor to engage in a commercial sex act. Minors do not face prosecution under the prostitution law, and law enforcement must file a report of suspected child abuse, enabling many victims to avoid a punitive response and to access services through child welfare. However, services are not required to be specialized to the needs of these children. A child who is sex trafficked or sexually exploited through prostitution or ICSE is considered an abused child by law and may receive a protective response through child welfare if properly identified, and the definition of caregiver does not present a barrier to child welfare involvement in non-familial trafficking cases. Crime victims’ compensation is available for victims of CSEC offenses; however, participating in the criminal conduct giving rise to the injury, failing to file a claim within two years of the crime, and failing to report the crime within three days of the crime or the time when a report could reasonably have been made could prevent CSEC victims from receiving

compensation. Victim-friendly criminal justice procedures are also limited. While child victims of any crime who are under age 11 may have videotaped deposition admitted in lieu of in-person testimony, Nebraska’s “rape shield” law is limited to victims of non-commercial sexual offenses and does not prevent CSEC victims from testifying or from cross-examination at the trials of their traffickers. Nebraska law does not provide a mechanism for minors to vacate delinquency adjudications, but child sex trafficking victims may have certain juvenile records sealed without a waiting period. Restitution is discretionary and is based on the actual damages of the victim. Victims may bring civil claims under the Human Trafficking Civil Remedies Act for damages, costs and attorney’s fees. The statute of limitations for civil claims under this act is 10 years from the later of: the conclusion of a related criminal prosecution, the victim’s 18th birthday, or the end of the human trafficking. Prosecutions for human trafficking must be brought within three years of the crime, while prosecutions for CSEC offenses must generally be brought within seven years of the crime.



## Criminal Justice Tools for Investigation and Prosecution

Nebraska law requires the development of human trafficking training curriculum for law enforcement. The state allows single party consent to audiotaping, but wiretapping is not permitted for human trafficking or most CSEC investigations. No laws expressly prohibit a defense based on the use of a law enforcement decoy posing as a minor to investigate human trafficking or

CSEC offenses, but use of the Internet is permissible in investigations of online enticement of a child for illegal sexual conduct. Nebraska has established a statewide reporting and response system for missing children, which requires reporting of missing and recovered missing children.



*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).*