

MOCK-UP

PROPOSED AMENDMENT 3588 TO
SENATE BILL NO. 389

PREPARED FOR SENATOR SCHEIBLE
APRIL 13, 2023

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

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

1 Existing law requires the payment of compensation from the Fund for the
2 Compensation of Victims of Crime to certain victims of criminal acts and requires an
3 application for such compensation from the Fund to be filed not later than 24 months after
4 the injury or death for which compensation is claimed. (NRS 217.100, 217.180, 217.260)

1 **Section 5** of this bill creates an exception to this time limit by authorizing a person who is a
2 victim of sex trafficking or facilitating sex trafficking to file an application for
3 compensation from the Fund not later than 60 months after the injury or death for which
4 compensation is claimed.

5 Existing law establishes the Contingency Account for Victims of Human
6 Trafficking. (NRS 217.530) Existing law requires the recipient of an allocation of
7 money from the Account to use the money only for the purposes of establishing or
8 providing programs or services to victims of human trafficking. Section 6.5 of this bill
9 specifies that a recipient of an allocation of money from the Account may use the
10 money for the purpose of establishing pilot programs for alternatives to law
11 enforcement response to victims of human trafficking.

12 Section 4 of this bill requires certain entities to work collaboratively to prepare and
13 submit a comprehensive biennial report on human trafficking in this State. **Section 6** of this
14 bill makes a conforming change to indicate the proper placement of **section 4** in the Nevada
15 Revised Statutes.

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

16 **Section 1.** NRS 201.295 is hereby amended to read as follows:
17 201.295 As used in NRS 201.295 to 201.440, inclusive, unless the
18 context otherwise requires:

- 19 1. "Adult" means a person 18 years of age or older.
- 20 2. *"Adult posing as a child" means an adult who is:*
21 *(a) A peace officer who is posing as a child; or*
22 *(b) A person who is assisting in an investigation on behalf of a peace*
23 *officer by posing as a child.*

- 24 3. "Child" means a person less than 18 years of age.
- 25 ~~{3.}~~ 4. "Induce" means to persuade, encourage, inveigle or entice.
- 26 ~~{4.}~~ 5. *"Peace officer" means any person upon whom some or all of*
27 *the powers of a peace officer are conferred pursuant to NRS 289.150 to*
28 *289.360, inclusive.*

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

34 ~~{5.}~~ 7. "Prostitution" means engaging in sexual conduct with another
35 person in return for a fee, monetary consideration or other thing of value.

36 ~~{6.}~~ 8. "Sexual conduct" means any of the acts enumerated in
37 subsection ~~{4.}~~

38 ~~—7.}~~ 6.

39 9. "Transports" means to transport or cause to be transported, by any
40 means of conveyance, into, through or across this State, or to aid or assist
41 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 the
3 person:
4 (a) Facilitates, arranges, provides or pays for the transportation of a
5 person to or within this State with the intent of:
6 (1) Inducing the person to engage in prostitution in violation of
7 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS
8 201.300;
9 (2) Inducing the person to enter any place within this State in which
10 prostitution is practiced, encouraged or allowed for the purpose of sexual
11 conduct or prostitution in violation of subparagraph (1), (2) or (3) of
12 paragraph (a) of subsection 2 of NRS 201.300; or
13 (3) If the person is a child, using the person for any act that is
14 prohibited by NRS 200.710 or 200.720 ~~or~~ *or, if the person is an adult*
15 *posing as a child, using the person for any act that would be prohibited*
16 *by NRS 200.710 or 200.720 if the person actually were a child;*
17 (b) Sells travel services that facilitate the travel of another person to
18 this State with the knowledge that the other person is traveling to this State
19 for the purpose of:
20 (1) Engaging in sexual conduct with a person who has been induced
21 to engage in sexual conduct or prostitution in violation of subparagraph
22 (1), (2) or (3) of paragraph (a) of subsection 2 of
23 NRS 201.300;
24 (2) Soliciting a child *or an adult posing as a child* who has been
25 induced to engage in sexual conduct or prostitution in violation of
26 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS
27 201.300; or
28 (3) Engaging in any act involving a child that is prohibited by NRS
29 200.710 or 200.720 ~~or~~ *or, if the person is an adult posing as a child,*
30 *engaging in any act that would be prohibited by NRS 200.710 or 200.720*
31 *if the person actually were a child;* or
32 (c) Travels to or within this State by any means with the intent of
33 engaging in:
34 (1) Sexual conduct with a person who has been induced to engage
35 in sexual conduct or prostitution in violation of subparagraph (1), (2) or (3)
36 of paragraph (a) of subsection 2 of NRS 201.300, with the knowledge that
37 such a person has been induced to engage in such sexual conduct or
38 prostitution; or
39 (2) Any act involving a child that is prohibited by NRS 200.710 or
40 200.720 ~~or~~ *or, if the person is an adult posing as a child, any act that*
41 *would be prohibited by NRS 200.710 or 200.720 if the person actually*
42 *were a child.*
43 2. A person who is found guilty of facilitating sex trafficking is guilty
44 of a category B felony and:

1 (a) ~~[[18 years of age or older,]]~~ *Except as otherwise provided in paragraph (b), if* the victim is
2 ~~[[18 years of age or older,]]~~ *an adult*, shall be punished by imprisonment in
3 the state prison for a minimum term of not less than 1 year and a maximum
4 term of not more than 6 years.

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

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

10 201.352 1. If a person is convicted of a violation of subsection 2 of
11 NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the
12 victim of the violation is a child *or an adult posing as a child* when the
13 offense is committed and physical force or violence or the immediate
14 threat of physical force or violence is used upon the child ~~[[18 years of age or older,]]~~ *or an adult*
15 *posing as a child*, the court may, in addition to the term of imprisonment
16 prescribed by statute for the offense and any fine imposed pursuant to
17 subsection 2, impose a fine of not more than \$500,000.

18 2. If a person is convicted of a violation of subsection 2 of NRS
19 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the
20 victim of the offense is a child *or an adult posing as a child* when the
21 offense is committed and the offense also involves a conspiracy to commit
22 a violation of subsection 2 of NRS 201.300, subsection 1 of NRS 201.301,
23 NRS 201.320 or 201.395, the court may, in addition to the punishment
24 prescribed by statute for the offense of a provision of subsection 2 of NRS
25 201.300, subsection 1 of NRS 201.301, NRS 201.320 or 201.395 and any
26 fine imposed pursuant to subsection 1, impose a fine of not more than
27 \$500,000.

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

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

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

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

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

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

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

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

- 1 (3) *The detention or citation of victims of human trafficking;*
2 (c) *Information concerning the delivery of services for victims of*
3 *human trafficking, which must include, without limitation:*
4 (1) *A description of the services that were provided by each entity*
5 *during the immediately preceding biennium;*
6 (2) *A description of the efforts made by each entity during the*
7 *immediately preceding biennium to locate victims in need of such*
8 *services and provide such services to those victims;*
9 (3) *The number of victims served by each entity during the*
10 *immediately preceding biennium; and*
11 (4) *The number of victims who were:*
12 (I) *Served by an entity during the immediately preceding*
13 *biennium; and*
14 (II) *Arrested or issued a citation during the immediately*
15 *preceding biennium for conduct related to human trafficking;*
16 (d) *Information relating to the prosecution of human trafficking in*
17 *this State, including, without limitation:*
18 (1) *The number of arrests made concerning human trafficking*
19 *during the immediately preceding biennium; and*
20 (2) *The number of charges filed concerning human trafficking*
21 *and the disposition of those cases; and*
22 (e) *Policy recommendations for decreasing human trafficking in this*
23 *State.*
24 3. *The following entities must work collaboratively to prepare and*
25 *submit the report required by subsection 1:*
26 (a) *The State of Nevada Human Trafficking Coalition;*
27 (b) *The Nevada Coalition to Prevent the Commercial Sexual*
28 *Exploitation of Children;*
29 (c) *The Nevada Policy Council on Human Trafficking, or its*
30 *successor organization;*
31 (d) *Each local human trafficking task force;*
32 (e) *Each recipient of an allocation of money from the Contingency*
33 *Account; and*
34 (f) *Any other entity designated by the Chair of the Joint Interim*
35 *Standing Committee on the Judiciary on or before January 1 of an even-*
36 *numbered year.*
37 4. *Each law enforcement agency in this State shall collaborate with*
38 *the entities designated pursuant to subsection 3 to carry out the duties*
39 *prescribed in this section.*
40 5. *As used in this section:*
41 (a) *“Contingency Account” means the Contingency Account for*
42 *Victims of Human Trafficking created by NRS 217.530.*
43 (b) *“Local human trafficking task force” includes, without*
44 *limitation:*

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

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

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

10 (d) *“State of Nevada Human Trafficking Coalition” means the State*
11 *of Nevada Human Trafficking Coalition formed pursuant to NRS*
12 *217.098.*

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

14 217.100 1. Except as otherwise provided in subsection 5, any
15 person eligible for compensation under the provisions of NRS 217.010 to
16 217.270, inclusive, may apply to the Director for such compensation not
17 later than 24 months after the injury or death for which compensation is
18 claimed ~~or~~ *or, for a person who is a victim of sex trafficking or*
19 *facilitating sex trafficking, not later than 60 months after the injury or*
20 *death for which compensation is claimed,* unless waived by the Director
21 or a person designated by the Director for good cause shown, and the
22 personal injury or death was the result of an incident or offense that was
23 reported to the police within 5 days of its occurrence or, if the incident or
24 offense could not reasonably have been reported within that period, within
25 5 days of the time when a report could reasonably have been made.

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

29 3. Where the person entitled to make application is:

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

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

35 4. The applicant must submit with his or her application the reports, if
36 reasonably available, from all physicians who, at the time of or subsequent
37 to the victim’s injury or death, treated or examined the victim in relation to
38 the injury for which compensation is claimed.

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

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

44 (a) *“Facilitating sex trafficking” means a violation of*
45 *NRS 201.301.*

1 (b) *“Sex trafficking” means a violation of subsection 2 of*
2 *NRS 201.300.*

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

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

8 **Sec. 6.5.** NRS 217.540 is hereby amended to read as follows:

9 217.540 1. A nonprofit organization or any agency or political
10 subdivision of this State may apply to the Director of the Department of
11 Health and Human Services for an allocation of money from the
12 Contingency Account.

13 2. ~~Except as otherwise provided in this subsection, the~~ The Grants
14 Management Advisory Committee created by NRS 232.383 shall review
15 applications received by the Director pursuant to subsection 1 and make
16 recommendations to the Director concerning allocations of money from
17 the Contingency Account to applicants. ~~If the Director, in his or her~~
18 ~~discretion, determines that an emergency exists and an allocation of money~~
19 ~~from the Contingency Account is needed immediately, the Director may~~
20 ~~make an allocation of money from the Contingency Account pursuant to~~
21 ~~this section without the review of the application or the making of~~
22 ~~recommendations by the Grants Management Advisory Committee.]~~

23 3. The Director may make allocations of money from the
24 Contingency Account to applicants and may place such conditions on the
25 acceptance of such an allocation as the Director determines are necessary,
26 including, without limitation, requiring the recipient of an allocation to
27 submit periodic reports concerning the recipient’s use of the allocation.

28 4. The recipient of an allocation of money from the Contingency
29 Account may use the money only for the purposes of establishing or
30 providing programs or services to victims of human trafficking H.
31 including, without limitation, establishing pilot programs for alternatives
32 to law enforcement response to victims of human trafficking.

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

34 432C.150 1. Information maintained by an agency which provides
35 child welfare services must be maintained by the agency which provides
36 child welfare services as required by federal law as a condition of the
37 allocation of federal money to this State.

38 2. Except as otherwise provided in this section, information
39 maintained by an agency which provides child welfare services may, at the
40 discretion of the agency which provides child welfare services, be made
41 available only to:

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

- 1 (b) A person authorized to place a child in protective custody, if the
2 person has before him or her a child who the person has reasonable cause
3 to believe is a commercially sexually exploited child and the person
4 requires the information to determine whether to place the child in
5 protective custody;
- 6 (c) An agency, including, without limitation, an agency in another
7 jurisdiction, responsible for or authorized to undertake the care, treatment
8 or supervision of:
- 9 (1) The child; or
10 (2) The person responsible for the welfare of the child;
- 11 (d) A district attorney or other law enforcement officer who requires
12 the information in connection with an investigation or prosecution of the
13 commercial sexual exploitation of a child;
- 14 (e) A court other than a juvenile court, for in camera inspection only,
15 unless the court determines that public disclosure of the information is
16 necessary for the determination of an issue before it;
- 17 (f) A person engaged in bona fide research or an audit, but information
18 identifying the subjects of a report must not be made available to the
19 person;
- 20 (g) The attorney and the guardian ad litem of the child, if the
21 information is reasonably necessary to promote the safety, permanency and
22 well-being of the child;
- 23 (h) Except as otherwise provided in subsection 4, a federal, state or
24 local governmental entity, or an agency of such an entity, or a juvenile
25 court, that needs access to the information to carry out its legal
26 responsibilities to protect children from commercial sexual exploitation;
- 27 (i) A person or an organization that has entered into a written
28 agreement with an agency which provides child welfare services to provide
29 assessments or services and that has been trained to make such
30 assessments or provide such services;
- 31 (j) A parent or legal guardian of the child and an attorney of a parent or
32 guardian of the child, if the identity of the person responsible for reporting
33 the commercial sexual exploitation of the child to a public agency is kept
34 confidential and the information is reasonably necessary to promote the
35 safety, permanency and well-being of the child and is limited to
36 information concerning that parent or guardian;
- 37 (k) The persons or agent of the persons who are the subject of a report,
38 if the information is reasonably necessary to promote the safety,
39 permanency and well-being of the child and is limited to information
40 concerning those persons; or
- 41 (l) Any person who is required pursuant to NRS 432B.220 to make a
42 report to an agency which provides child welfare services or to a law
43 enforcement agency.
- 44 3. Before releasing any information maintained by an agency which
45 provides child welfare services pursuant to this section, an agency which

1 provides child welfare services shall take whatever precautions it
2 determines are reasonably necessary to protect the identity and safety of
3 any person who reports that a child is a commercially sexually exploited
4 child and to protect any other person if the agency which provides child
5 welfare services reasonably believes that disclosure of the information
6 would cause a specific and material harm to an investigation of the alleged
7 commercial sexual exploitation of a child or the life or safety of any
8 person.

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

- 13 (a) Sex trafficking a child in violation of NRS 201.300; or
14 (b) Facilitating sex trafficking of a child *or an adult posing as a child,*
15 *as defined in NRS 201.295,* in violation of NRS 201.301.

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

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

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

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

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

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

44 11. As used in this section, "parent" has the meaning ascribed to it in
45 NRS 432B.080.

1 Sec. 7.4. There is hereby appropriated from the State General
2 Fund to the Contingency Account for Victims of Human Trafficking
3 created by NRS 217.530 the sum of \$1,000,000.

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

7 Sec. 9. 1. This section and section 7.4 of this act ~~becomes~~
8 become effective upon passage and approval.

9 2. Sections 1 to 7, inclusive, and section 8 of this act become
10 effective on July 1, 2023.

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