



Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Neb. Rev. Stat. Ann. § 28-831 (2017) – Human Trafficking; Labor or Sex Trafficking; Labor or Sex Trafficking of a Minor

i. Summary

A person who engages in labor or sex trafficking is guilty of a felony. Neb. Rev. Stat. Ann. § 28-831(1), (2).

“Labor trafficking” is defined as “knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a person eighteen years of age or older intending or knowing that the person will be subjected to forced labor or services.” Neb. Rev. Stat. Ann. § 28-830(7).

“Labor trafficking of a minor” is defined as “knowingly recruiting, enticing, harboring, transporting, providing, or obtaining by any means or attempting to recruit, entice, harbor, transport, provide, or obtain by any means a minor intending or knowing that the minor will be subjected to forced labor or services.” Neb. Rev. Stat. Ann. § 28-830(8).

“Sex trafficking” is defined as:

knowingly recruiting, enticing, harboring, transporting, providing, soliciting, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, solicit, or obtain by any means a person eighteen years of age or older for the purpose of having such person engage without consent, as defined in section 28-318, in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a person eighteen years of age or older to engage without consent, as defined in section 28-318, in commercial sexual activity, sexually explicit performance, or the production of pornography.

Neb. Rev. Stat. Ann. § 28-830(11).

“Sex trafficking of a minor” is defined as

knowingly recruiting, enticing, harboring, transporting, providing, soliciting, or obtaining by any means or knowingly attempting to recruit, entice, harbor, transport, provide, solicit, or obtain by any means a minor for the purpose of having such minor engage in commercial sexual activity, sexually explicit performance, or the production of pornography or to cause or attempt to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of pornography.

Neb. Rev. Stat. Ann. § 28-830(12).

“It is not a defense in a prosecution for labor trafficking of a minor or sex trafficking of a minor

- (a) that consent was given by the minor victim,
- (b) that the defendant believed that the minor victim gave consent, or
- (c) that the defendant believed that the minor victim was an adult.”

Neb. Rev. Stat. Ann. § 28-831(4).

A “trafficking victim” is defined as “a person subjected to any act or acts prohibited by section 28-831.” Neb. Rev. Stat. Ann. § 28-830(14).

“Any person, other than a trafficking victim, who knowingly benefits from or participates in a venture which has, as part of the venture, an act that is in violation of this section [section 28-831] is guilty of a Class IIA felony.” Neb. Rev. Stat. Ann. § 28-831(3).

ii. Sentencing

A person who engages in “labor trafficking” or “sex trafficking” of an adult is guilty of a Class II felony. Neb. Rev. Stat. Ann. § 28-831(2). A Class II felony is punishable by imprisonment for one to 50 years. Neb. Rev. Stat. Ann. § 28-105.

A person who engages in labor or sex trafficking of a minor is guilty of a Class IB felony. Neb. Rev. Stat. Ann. § 28-831(1). A Class IB felony is punishable by imprisonment for 20 years to life. Neb. Rev. Stat. Ann. § 28-105.

A Class IIA felony is punishable by imprisonment for a maximum of 20 years and has no minimum term of imprisonment. Neb. Rev. Stat. Ann. § 28-105.

A court may also order the defendant to pay restitution to the victim. Neb. Rev. Stat. Ann. §§ 29-2280, 29-2281.

iii. Statute of Limitations

There is no statute of limitations for prosecution for labor or sex trafficking of a minor under section 28-831(1). Neb. Rev. Stat. Ann. § 29-110(11).

With respect to prosecutions involving either adult victims or persons who knowingly benefit or participate in a trafficking venture, a person shall not be prosecuted:

- (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim’s eighteenth birthday, whichever is later, or
- (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim’s eighteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

Neb. Rev. Stat. Ann. § 29-110(4).

b. Neb. Rev. Stat. Ann. § 28-707 (2019) – Child Abuse

i. Summary

A person commits the crime of child abuse if the person knowingly, intentionally, or negligently causes or permits a minor child to be:

* * *

- (d) Placed in a situation to be sexually exploited through sex trafficking of a minor as defined in section 28-830 or by allowing, encouraging, or forcing such minor child to engage in debauchery, public indecency, or obscene or pornographic photography, films, or depictions;
- (e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01; or
- (f) Placed in a situation to be a trafficking victim as defined in section 28-830.

Neb. Rev. Stat. Ann. § 28-707(d)–(f).

ii. Sentencing

“Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.” Neb. Rev. Stat. Ann. § 28-707(3). The maximum sentence is imprisonment for one year, a USD 1,000 fine, or both, and there is no minimum term of imprisonment. Neb. Rev. Stat. Ann. § 28-106.

“Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death,” Neb. Rev. Stat. Ann. § 28-707(4), or “if the offense is committed negligently and results in serious bodily injury as defined in section 28-109,” Neb. Rev. Stat. Ann. § 28-707(5). The maximum sentence is imprisonment for three years with 18 months post-release supervision, a fine of USD 10,000, or both, and there is no minimum term of imprisonment. Neb. Rev. Stat. Ann. § 28-105.

“Child abuse is a Class IIA felony if the offense is committed negligently and results in the death of such child.” Neb. Rev. Stat. Ann. § 28-707(6). The maximum sentence is imprisonment for 20 years, and there is no minimum term of imprisonment. Neb. Rev. Stat. Ann. § 28-105. “Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in [section 28-109].” Neb. Rev. Stat. Ann. § 28-707(7). The penalty is imprisonment for one to 50 years. Neb. Rev. Stat. Ann. § 28-105.

Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child. Neb. Rev. Stat. Ann. § 28-707(8). The penalty is imprisonment for 20 years to life. Neb. Rev. Stat. Ann. § 28-105. In addition to any other penalty, a defendant may also be ordered to pay restitution to the victim. Neb. Rev. Stat. Ann. §§ 29-2280, 29-2281.

iii. Statute of Limitations

Except as otherwise provided by law,

no person shall be prosecuted for ... child abuse under section 28-707 ...

- (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim’s sixteenth birthday, whichever is later, or
- (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim’s sixteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

Neb. Rev. Stat. Ann. § 29-110(3).

c. Neb. Rev. Stat. Ann. § 25-21,302 (2016) – Forfeiture

In addition to any other criminal or civil penalties, any property used in committing a human trafficking offense may be forfeited. Neb. Rev. Stat. Ann. § 25-21,302(1)(a).

d. Neb. Rev. Stat. Ann. § 28-801 (2016); § 28-801.01 (2015) – Affirmative Defense

It is an affirmative defense to prosecutions for prostitution and solicitation of prostitution that the person charged was a trafficking victim as defined in section 28-830. Neb. Rev. Stat. Ann. §§ 28-801(3), 28-801.01(3).

e. Neb. Rev. Stat. Ann. § 28-801 (2016) – Immunity from Prosecution

The Nebraska prostitution statute provides:

If the law enforcement officer determines, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) of this section [Neb. Rev. Stat. Ann. § 28-801] is (a) a person engaging in those acts as a direct result of being a trafficking victim as defined in section 28-830, such person shall be immune from prosecution for a prostitution offense or (b) a person under eighteen years of age, such person shall be immune from prosecution for a prostitution offense under this section and shall be subject to temporary custody under section 43-248 and further disposition under the Nebraska Juvenile Code. A law enforcement officer who takes a person under eighteen years of age into custody under this section shall immediately report an allegation of a violation of section 28-831 to the Department of Health and Human Services which shall commence an investigation within twenty-four hours under the Child Protection and Family Safety Act.

Neb. Rev. Stat. Ann. § 28-801(5).

f. Neb. Rev. Stat. Ann. § 29-3005 (2018) – Motion to Set Aside Conviction or Adjudication

A victim of sex trafficking who is convicted of a crime related to or committed as a result of the person’s status as a victim of sex trafficking may file a motion to set aside the conviction or adjudication.

g. Neb. Rev. Stat. Ann. § 29-3523 (2019) – Expungement

“Upon the granting of a motion to set aside a conviction or adjudication pursuant to section 29-3005, [a sex trafficking victim] may file a motion with the sentencing court for an order to seal the criminal history record information related to such conviction or adjudication.” Neb. Rev. Stat. Ann. § 29-3523(4). After the court seals the record, the information is removed from the public record. Neb. Rev. Stat. Ann. § 29-3523(7)(a).

In any application for employment, bonding, license, education, or other right or privilege, any appearance as a witness, or any other public inquiry, a person cannot be questioned with respect to any offense for which the record is sealed. If an inquiry is made in violation of this subsection, the person may respond as if the offense never occurred.

Neb. Rev. Stat. Ann. § 29-3523(8).

h. Neb. Rev. Stat. Ann. § 28-1352 to § 28-1356 (2009) – Racketeering

Nebraska’s racketeering statute provides that labor trafficking, sex trafficking, labor trafficking of a minor, and sex trafficking of a minor constitute predicate crimes. Neb. Rev. Stat. Ann. § 28-1354(5)(j).

2. Online Child Sexual Exploitation and Child Pornography Offenses

Neb. Rev. Stat. Ann. § 28-813.01 – Sexually Explicit Conduct; Visual Depiction

Neb. Rev. Stat. Ann. § 28-833 – Enticement by Electronic Communication Device

Neb. Rev. Stat. Ann. §§ 28-1463.01–1463.05 – Child Pornography Prevention Act

3. Neb. Rev. Stat. Ann. §§ 29-4003, 4004 (2012) – Sex Offender Registry

With limited exceptions, a person found guilty of sexual crimes, including possession or creation of child pornography, must register as a sex offender. Neb. Rev. Stat. Ann. §§ 29-4003, 4004.

B. Civil Liability Statutes

1. Neb. Rev. Stat. Ann. § 25-21,297 to § 25-21,301 (2015) – Civil Lawsuits

a. Summary

Under Nebraska’s Human Trafficking Victims Civil Remedy Act (Neb. Rev. Stat. Ann. § 25-21,297 to § 25-21,301), any trafficking victim, a victim’s parent or legal guardian, or personal representative in the event of the victim’s death, who:

suffered or continues to suffer personal or mental injury, death, or any other damages proximately caused by such human trafficking may bring a civil action [lawsuit] against any person who knowingly

- (a) engaged in human trafficking of such victim within this state or
- (b) aided or assisted in the human trafficking of such victim within this state.

Neb. Rev. Stat. Ann. § 25-21,299(1).

A plaintiff in such a lawsuit may request to use a pseudonym in all court proceedings and records. Neb. Rev. Stat. Ann. § 25-21,301.

b. Damages and Other Relief

A plaintiff who prevails in a civil lawsuit brought pursuant to the Human Trafficking Victims Civil Remedy Act may recover damages proximately caused by the defendant’s actions plus any attorney’s fees and costs reasonably associated with the civil lawsuit. Neb. Rev. Stat. Ann. § 25-21,299(2).

The recoverable damages include, but are not limited to:

- (a) The physical pain and mental suffering the plaintiff has experienced and is reasonably certain to experience in the future;
- (b) The reasonable value of the medical, hospital, nursing, and care and supplies reasonably needed by and actually provided to the plaintiff and reasonably certain to be needed and provided in the future;
- (c) The reasonable value of transportation, housing, and child care reasonably needed and actually incurred by the plaintiff;

- (d) The reasonable value of the plaintiff’s labor and services the plaintiff has lost because he or she was a trafficking victim;
- (e) The reasonable monetary value of the harm caused by the documentation and circulation of the human trafficking;
- (f) The reasonable costs incurred by the plaintiff to relocate away from the defendant or the defendant’s associates;
- (g) In the event of death, damages available as in other actions [lawsuits] for wrongful death; and
- (h) The reasonable costs incurred by the plaintiff to participate in the criminal investigation or prosecution or attend criminal proceedings related to trafficking the plaintiff.

Neb. Rev. Stat. Ann. § 25-21,299(3). “In addition to all other remedies available under this section, the court may enter an order of attachment” Neb. Rev. Stat. Ann. § 25-21,299(4).

c. Statute of Limitations

Any lawsuit to recover damages under the Nebraska Human Trafficking Victims Civil Remedy Act shall be filed within 10 years after the later of:

- (1) The conclusion of any related criminal prosecution against the person or persons from whom recovery is sought;
- (2) The receipt of actual or constructive notice sent or given to the trafficking victim or his or her parent or legal guardian by a member of a law enforcement entity informing the victim or his or her parent or legal guardian that the entity has identified the person who knowingly (a) engaged in human trafficking of such victim or (b) aided or assisted with the human trafficking of such victim;
- (3) The time at which the human trafficking of the trafficking victim ended if he or she was eighteen years of age or older; or
- (4) The victim reaching the age of majority if the victim was under eighteen years of age at the time he or she was a victim of human trafficking.

Neb. Rev. Stat. Ann. § 25-21,300.

2. Neb. Rev. Stat. Ann. § 25-21,292 (2010) – Exploited Children’s Civil Remedy Act

a. Summary

Under Nebraska’s Exploited Children’s Civil Remedy Act, any participant or portrayed observer in a visual depiction of sexually explicit conduct or the victim’s parent or legal guardian “who suffered or continues to suffer personal or psychological injury as a result of such participation or portrayed observation” may bring a civil lawsuit. The lawsuit may be brought against any person “who knowingly and willfully

- (a) created, distributed, or actively acquired such visual depiction while in this state or
- (b) aided or assisted with the creation, distribution, or active acquisition of such visual depiction while such person or the person aided or assisted was in this state.”

Neb. Rev. Stat. Ann. § 25-21,292(1).

“This section does not create a [right to sue] if the participant was 16 years of age or older at the time the visual depiction was created, and the participant willfully and voluntarily participated in the creation of the visual depiction.” Neb. Rev. Stat. Ann. § 25-21,292(3).

“No law enforcement officer engaged in his or her law enforcement duties, governmental entity, provider of interactive computer service, provider of telecommunications service, or cable operator is subject to a civil [lawsuit] under the Exploited Children’s Civil Remedy Act.” Neb. Rev. Stat. Ann. § 25-21,292(4).

b. Damages and Other Relief

A plaintiff who prevails in a civil [lawsuit] brought pursuant to the Exploited Children’s Civil Remedy Act may recover his or her actual damages, which are deemed to be a minimum of [USD 150,000], plus any and all attorney’s fees and costs reasonably associated with the civil [lawsuit]. In addition to all other remedies available under the act, the court may also award temporary, preliminary, and permanent injunctive relief as the court deems necessary and appropriate.

Neb. Rev. Stat. Ann. § 25-21,292(2).

c. Statute of Limitations

Any lawsuit to recover damages under the Exploited Children’s Civil Remedy Act shall be filed within three years after the later of:

- (1) The conclusion of any related criminal prosecution against the person or persons from whom recovery is sought;
- (2) The receipt of actual or constructive notice sent or given to the participant or portrayed observer or his or her parent or legal guardian by a member of a law enforcement entity informing the participant or portrayed observer or his or her parent or legal guardian that the entity has identified the person:
 - (a) Who created, distributed, or actively acquired the visual depiction of sexually explicit conduct containing the participant or portrayed observer; or
 - (b) Who aided or assisted another person with the creation, distribution, or active acquisition of the visual depiction of sexually explicit conduct containing the participant or portrayed observer; or
- (3) The participant or portrayed observer reaching the age of eighteen years.

Neb. Rev. Stat. Ann. § 25-21,293.

C. Additional Statutes Specific to Human Trafficking

1. Neb. Rev. Stat. Ann. §§ 48-1228 et seq. (2014) – Nebraska Wage Payment and Collection Act

An employee may bring a civil lawsuit to recover unpaid wages. Neb. Rev. Stat. Ann. § 48-1231. A successful employee is entitled to attorney’s fees and costs, as well as an amount equal to at least the amount of the judgment. Neb. Rev. Stat. Ann. §§ 48-1231, 48-1232. A noncompliant employer may also face additional administrative penalties. Neb. Rev. Stat. Ann. § 48-1234.

Additional information is available at: <https://dol.nebraska.gov/LaborStandards/WorkerRights/WageComplaint>.

2. Neb. Rev. Stat. Ann. § 42-1204 (2017) – Confidential Address

Victims of crimes including human trafficking may apply to the Nebraska Secretary of State for a confidential address.

3. Neb. Rev. Stat. Ann. §§ 81-1430, 1431 (2017) – Human Trafficking Task Force, Training, and Posters

Nebraska established a task force for the purpose of investigating and studying human trafficking, the methods for advertising human trafficking services, and the victimization of individuals coerced to participate in human trafficking. The task force also works with the Department of Labor to develop or select informational posters that must be placed in rest stops and strip clubs and can voluntarily be placed elsewhere. Neb. Rev. Stat. Ann. § 81-1430. The task force was assigned to develop mandatory training on human trafficking issues for “law enforcement agencies, prosecutors, public defenders, judges, juvenile detention center staff, and others involved in the juvenile justice system and the criminal justice system and other relevant officials” Neb. Rev. Stat. Ann. § 81-1431.

Nebraska also created a Strengthening Families Act Committee. Its purposes include making recommendations regarding ongoing implementation of the federal Preventing Sex Trafficking and Strengthening Families Act. Neb. Rev. Stat. Ann. § 43-4716.

4. Neb. Rev. Stat. Ann. § 81-1429.02 (2015) – Human Trafficking Victim Assistance Fund

Nebraska created a fund used to support care, treatment, and other services for victims of human trafficking and commercial sexual exploitation of children.

D. Significant Cases

1. *State v. Paez*, 925 N.W.2d 75 (Neb. 2019)

A jury convicted the defendant of enticement of a minor by an electronic communication device. The defendant appealed, arguing the court erred in failing to instruct the jury that the elements of the offense required knowledge that the recipient was under 16 years old.

The court agreed with the defendant, holding that where the prosecution under section 28-833 involves a minor rather than a decoy, a defendant’s knowledge that the recipient is under age 16 is a material element of the crime.

2. *State v. Swindle*, 915 N.W.2d 795 (Neb. 2018)

The defendant was convicted of first degree assault of a child, sex trafficking of a victim under 16 years, and sex trafficking by inflicting or threatening serious personal injury. He appealed, arguing that the trial court should have instructed the jury that defendant’s knowledge of the victim’s age is an essential element of the offense of sex trafficking of a minor.

The court concluded that knowledge of the victim’s age is not an essential element of sex trafficking of a minor under section 28-831(1).

E. Academic Research/Papers

No academic research or papers were found regarding Nebraska’s human trafficking statutes.

F. Resources

National Human Trafficking Hotline (Nebraska):

<https://humantraffickinghotline.org/state/nebraska>

Nebraska Attorney General’s Office:

<https://ago.nebraska.gov/combating-human-trafficking>

Shared Hope International, Nebraska Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_NE.pdf

Shared Hope International, Nebraska Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_NE.pdf

U.S. Department of Health & Human Services, *Nebraska: Efforts to Combat Human Trafficking* (2017):

https://www.acf.hhs.gov/sites/default/files/documents/otip/nebraska_profile_efforts_to_combat_human_trafficking.pdf

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