

**S.B. 360**

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SENATE BILL NO. 360—SENATORS PICKARD, SEEVERS GANSERT,  
HAMMOND; HANSEN, HARDY AND SETTELMAYER

MARCH 19, 2019

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JOINT SPONSORS: ASSEMBLYMEN HARDY, LEAVITT,  
TITUS, ROBERTS; EDWARDS, ELLISON AND KRAMER

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Referred to Committee on Judiciary

SUMMARY—Enacts the Human Trafficking and Child  
Exploitation Prevention Act. (BDR 15-11)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides  
for Term of Imprisonment in County or City Jail or  
Detention Facility.

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.

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AN ACT relating to crimes; enacting the Human Trafficking and  
Child Exploitation Prevention Act; prohibiting certain  
persons from manufacturing, selling, offering for sale,  
leasing or distributing a product that makes content  
accessible on the Internet unless certain requirements are  
met; providing for certain fees; establishing the Human  
Trafficking and Child Exploitation Prevention Grant  
Fund; authorizing the imposition of a fine; providing a  
penalty; and providing other matters properly relating  
thereto.

**Legislative Counsel's Digest:**

1 This bill enacts the Human Trafficking and Child Exploitation Prevention Act.  
2 **Section 4** of this bill generally prohibits a person from manufacturing, selling,  
3 offering for sale, leasing or distributing any product that makes content accessible  
4 on the Internet unless: (1) the product has a digital blocking capability that attempts  
5 to render Internet websites displaying obscene material inaccessible by default; and  
6 (2) if the product is being manufactured for or is sold, offered for sale, leased or  
7 distributed to a consumer who is less than 18 years of age, the digital blocking  
8 capability is active and properly operating. **Section 4** also imposes certain duties on  
9 a person who manufactures, sells, offers for sale, leases or distributes any product  
10 that makes content accessible on the Internet.

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11 **Section 5** of this bill requires a person who manufactures, sells, offers for sale,  
12 leases or distributes a product that makes content accessible on the Internet to  
13 deactivate the digital blocking capability of the product if certain requirements are  
14 met, including a requirement that the person collect a one-time digital access fee of

15 \$20 from the consumer, which is required to be remitted to the State. **Section 5** also  
16 authorizes such a person to charge an additional fee to deactivate the digital  
17 blocking capability of the product, which the person is authorized to retain.  
18 **Section 6** of this bill establishes the Human Trafficking and Child Exploitation  
19 Prevention Grant Fund. **Section 6** requires any digital access fees and any fines  
20 collected by the State for certain violations to be deposited with the State Treasurer  
21 each quarter for credit to the Fund. **Section 6** further requires that money credited  
22 to the Fund may be used only for certain purposes by: (1) the Attorney General; (2)  
23 the Department of Health and Human Services; (3) the Office of the Governor; and  
24 (4) any state agency or organization.  
25 **Section 7** of this bill authorizes the filing of a civil action by the Attorney  
26 General or a consumer if a person who manufactures, sells, offers for sale, leases or  
27 distributes a product that makes content accessible on the Internet is not responsive  
28 to a report of an Internet website displaying obscene material. **Section 7** authorizes  
29 the Attorney General or consumer to seek damages in an amount not to exceed  
30 \$500 for each Internet website that was reported but was not subsequently blocked.  
31 **Section 7** requires that any such monetary award be deposited with the State  
32 Treasurer for credit to the State General Fund.  
33 **Section 8** of this bill establishes an affirmative defense in a civil action that the  
34 dissemination of any obscene material was limited to institutions or organizations  
35 having scientific, educational or other similar justifications for displaying the  
36 obscene material.  
37 **Section 9** of this bill provides that if a person who manufactures, sells, offers  
38 for sale, leases or distributes a product that makes content accessible on the Internet  
39 commits certain violations, the person must be punished: (1) for a first offense, by a  
40 fine of \$1,000; and (2) for a second or subsequent offense, for a misdemeanor.  
41 **Section 10** of this bill provides that the provisions of **sections 2-9** of this bill do  
42 not apply to the occasional sale of any product that makes content accessible on the  
43 Internet by a person who is not regularly engaged in the business of selling such  
44 products.

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

1 **Section 1.** Chapter 201 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this  
3 act.  
4 **Sec. 2.** *Sections 2 to 10, inclusive, of this act may be cited as*  
5 *the Human Trafficking and Child Exploitation Prevention Act.*  
6 **Sec. 3.** *As used in sections 2 to 10, inclusive, of this act,*  
7 *unless the context otherwise requires, "obscene material" means*  
8 *anything that is capable of being used or adapted to arouse*  
9 *interest, whether through the medium of reading, observation,*  
10 *sound or in any other manner, which:*

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1 *1. An average person applying contemporary community*  
2 *standards would find, taken as a whole, appeals to prurient*  
3 *interest;*  
4 *2. Taken as a whole lacks serious literary, artistic, political or*  
5 *scientific value; and*  
6 *3. Does one of the following:*  
7 *(a) Depicts or describes in a patently offensive way ultimate*  
8 *sexual acts, normal or perverted, actual or simulated.*  
9 *(b) Depicts or describes in a patently offensive way*  
10 *masturbation, excretory functions, sadism or masochism.*  
11 *(c) Lewdly exhibits the genitals.*  
12 *↗ Appeal must be judged with reference to ordinary adults, unless*  
13 *it appears, from the character of the material or the circumstances*  
14 *of its dissemination, to be designed for children or a clearly*

15 *defined deviant group.*

16 *Sec. 4. 1. Except as otherwise provided in section 10 of this*  
17 *act, a person shall not manufacture, sell, offer for sale, lease or*  
18 *distribute any product that makes content accessible on the*  
19 *Internet unless:*

20 *(a) The product has a digital blocking capability that attempts*  
21 *to render Internet websites displaying obscene material*  
22 *inaccessible by default; and*

23 *(b) If the product is being manufactured for or is sold, offered*  
24 *for sale, leased or distributed to a consumer who is less than 18*  
25 *years of age, the digital blocking capability is active and properly*  
26 *operating.*

27 *2. A person who manufactures, sells, offers for sale, leases or*  
28 *distributes a product that makes content accessible on the Internet*  
29 *shall:*

30 *(a) Make reasonable and ongoing efforts to ensure that the*  
31 *digital blocking capability of the product functions properly.*

32 *(b) Establish a reporting mechanism, including, without*  
33 *limitation, an Internet website or call center, to allow a consumer*  
34 *to report any unblocked Internet website that displays obscene*  
35 *material or any blocked Internet website that does not display*  
36 *obscene material.*

37 *(c) Except as otherwise provided in subsection 3, attempt to:*

38 *(1) Ensure that any Internet website displaying*  
39 *pornography involving minors or an intimate image is inaccessible*  
40 *on the product by default;*

41 *(2) Prevent the product from accessing any hub that*  
42 *facilitates prostitution by default; and*

43 *(3) Render any Internet website known to facilitate human*  
44 *trafficking inaccessible by default.*

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1 *(d) Report any Internet website that displays pornography*  
2 *involving minors, of which the person is made aware pursuant to*  
3 *the reporting mechanism established pursuant to paragraph (b) of*  
4 *subsection 2, to the CyberTipline of the National Center for*  
5 *Missing and Exploited Children, or any successor to the*  
6 *CyberTipline operated by the National Center for Missing and*  
7 *Exploited Children, in accordance with 18 U.S.C. § 2258A.*

8 *3. The digital blocking capability of a product must not block*  
9 *access to any:*

10 *(a) Social media Internet website that provides a means for a*  
11 *user thereof to report obscene material and has procedures in*  
12 *place for evaluating such reports and removing obscene material;*  
13 *or*

14 *(b) Search engine.*

15 *4. As used in this section, "intimate image" includes, without*  
16 *limitation, a photograph, film, videotape or other recorded image*  
17 *which depicts:*

18 *(a) The fully exposed nipple of the female breast of another*  
19 *person, including through transparent clothing; or*

20 *(b) One or more persons engaged in sexual conduct.*

21 *Sec. 5. 1. A person who manufactures, sells, offers for sale,*  
22 *leases or distributes a product that makes content accessible on the*  
23 *Internet shall deactivate the digital blocking capability of the*  
24 *product if:*

25 (a) *The consumer requests that the digital blocking capability*  
26 *be deactivated;*  
27 (b) *The person requests that the consumer present*  
28 *identification to verify that the consumer is 18 years of age or*  
29 *older and the consumer presents such identification;*  
30 (c) *The person provides to the consumer a warning regarding*  
31 *the potential dangers of deactivating the digital blocking capability*  
32 *and the consumer acknowledges receiving such a warning; and*  
33 (d) *The person collects from the consumer a one-time digital*  
34 *access fee of \$20, to be remitted to the State in accordance with*  
35 *section 6 of this act.*  
36 2. *The digital access fee required by paragraph (d) of*  
37 *subsection 1 is not content-based but is charged to a consumer*  
38 *and remitted to the State for the purpose of helping the State bear*  
39 *the costs of upholding community standards of decency and*  
40 *combat sexual offenses.*  
41 3. *In addition to the digital access fee required by paragraph*  
42 *(d) of subsection 1, a person may charge a reasonable fee to*  
43 *deactivate the digital blocking capability of a product and may*  
44 *retain such a fee.*

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1 *Sec. 6. 1. There is hereby established in the State Treasury*  
2 *a special fund to be known as the Human Trafficking and Child*  
3 *Exploitation Prevention Grant Fund.*  
4 2. *Any digital access fees collected by a person pursuant to*  
5 *paragraph (d) of subsection 1 of section 5 of this act and any fines*  
6 *collected by the State pursuant to paragraph (a) of subsection 2 of*  
7 *section 2 of this act must be deposited with the State Treasurer*  
8 *each quarter for credit to the Fund.*  
9 3. *Money credited to the Fund may be used only by:*  
10 (a) *The Attorney General, for grants to governmental and*  
11 *nongovernmental entities and persons who are working to uphold*  
12 *community standards of decency, strengthen families and develop,*  
13 *expand or strengthen programs for victims of human trafficking*  
14 *or child exploitation. Such grants may include, without limitation,*  
15 *grants for the sole benefit of victims of human trafficking or child*  
16 *exploitation, including, without limitation, grants for:*  
17 (1) *Testing sexual assault forensic evidence kits.*  
18 (2) *Providing physical and mental health services.*  
19 (3) *Providing temporary or permanent housing placement.*  
20 (4) *Providing employment placement, education and*  
21 *training.*  
22 (5) *Training first responders and increasing public*  
23 *awareness for the purpose of preventing human trafficking,*  
24 *domestic violence, prostitution, divorce, child abuse and rape and*  
25 *protecting victims thereof.*  
26 (6) *Providing compensation for victims.*  
27 (7) *Funding independent school districts.*  
28 (8) *Funding shelters and dream centers.*  
29 (9) *Providing family counseling.*  
30 (10) *Assisting law enforcement agencies in relation to*  
31 *human trafficking and child exploitation.*  
32 (11) *Funding musical, writing, design, cinematic or*  
33 *pictorial creative art projects that promote decency.*  
34 (b) *The Department of Health and Human Services for grants*

35 *to support programs assisting victims of human trafficking.*  
36 *(c) The Office of the Governor for grants to support:*  
37 *(1) The prosecution of human trafficking.*  
38 *(2) Projects to uphold community standards of decency.*  
39 *(3) State security.*  
40 *(d) Any state agency or organization for the purpose of*  
41 *conducting human trafficking enforcement programs.*  
42 *4. As used in this section:*  
43 *(a) "Human trafficking" has the meaning ascribed to it in*  
44 *NRS 49.25425.*

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1 *(b) "Sexual assault forensic evidence kit" has the meaning*  
2 *ascribed to it in NRS 200.364.*  
3 *Sec. 7. 1. If the digital blocking capability of a product*  
4 *blocks an Internet website that does not display obscene material*  
5 *and the block is reported through a reporting mechanism*  
6 *established pursuant to paragraph (b) of subsection 2 of section 4*  
7 *of this act, the Internet website must be unblocked within a*  
8 *reasonable time, but not later than 5 business days after the block*  
9 *is first reported.*  
10 *2. A consumer may seek judicial relief to unblock filtered*  
11 *content. The prevailing party may seek attorney's fees, costs and*  
12 *other forms of relief.*  
13 *3. If a person who manufactures, sells, offers for sale, leases*  
14 *or distributes a product that makes content accessible on the*  
15 *Internet is unresponsive to a report of an Internet website*  
16 *displaying obscene material that has breached the filter, the*  
17 *Attorney General or a consumer may file a civil action against the*  
18 *person. The Attorney General or a consumer may seek damages in*  
19 *an amount not to exceed \$500 for each Internet website that was*  
20 *reported but was not subsequently blocked. The prevailing party in*  
21 *the civil action may seek attorney's fees, costs and other forms of*  
22 *relief. Any monetary award recovered by the Attorney General or*  
23 *consumer, other than attorney's fees and costs, must be deposited*  
24 *with the State Treasurer for credit to the State General Fund.*  
25 *Sec. 8. It is an affirmative defense in a civil action regarding*  
26 *a violation of sections 2 to 10, inclusive, of this act that the*  
27 *dissemination of any obscene material was limited to institutions*  
28 *or organizations having scientific, educational or other similar*  
29 *justifications for displaying the obscene material.*  
30 *Sec. 9. 1. A person who manufactures, sells, offers for sale,*  
31 *leases or distributes a product that makes content accessible on the*  
32 *Internet shall be punished as provided in subsection 2 if the*  
33 *person knowingly:*  
34 *(a) Provides the source code or mechanism to deactivate the*  
35 *digital blocking capability of a product to a consumer who is less*  
36 *than 18 years of age or to a nonconsenting adult;*  
37 *(b) Violates subsection 1 of section 4 of this act; or*  
38 *(c) Fails to comply with the requirements of subsection 1 of*  
39 *section 5 of this act before deactivating the digital blocking*  
40 *capability of a product.*  
41 *2. A person who violates the provisions of subsection 1 shall*  
42 *be punished:*  
43 *(a) For a first offense, by a fine of \$1,000.*  
44 *(b) For a second or subsequent offense, for a misdemeanor.*

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1       **Sec. 10.** *The provisions of sections 2 to 9, inclusive, of this*  
2 *act do not apply to the occasional sale of any product that makes*  
3 *content accessible on the Internet by a person who is not regularly*  
4 *engaged in the business of selling such products.*

5       **Sec. 11.** Except as otherwise provided in section 10 of this act,  
6 the amendatory provisions of this act apply to any products that  
7 make content accessible on the Internet that are manufactured, sold,  
8 offered for sale, leased or distributed on or after October 1, 2019.

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