

SENATE BILL NO. 456—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to crime of involuntary servitude. (BDR 15-113)

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 the provisions prohibiting a person from holding another person in involuntary servitude; revising the provisions prohibiting a person from assisting in holding another person in involuntary servitude; providing penalties; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 193.1675 is hereby amended to read as
2 follows:
3 193.1675 1. Except as otherwise provided in NRS 193.169,
4 any person who willfully violates any provision of NRS 200.280,
5 200.310, 200.366, 200.380, 200.400, 200.460, 200.465, paragraph
6 (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or
7 subsection 2 of NRS 200.575 *or section 3 or 4 of this act* because
8 the actual or perceived race, color, religion, national origin, physical
9 or mental disability or sexual orientation of the victim was different
10 from that characteristic of the perpetrator ~~§~~ may be punished by
11 imprisonment in the state prison for an additional term not to exceed
12 25 percent of the term of imprisonment prescribed by statute for the
13 crime.



2. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 2. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. A person who knowingly subjects, or attempts to subject, another person to forced labor or services by:

(a) Causing or threatening to cause physical harm to any person;

(b) Physically restraining or threatening to physically restrain any person;

(c) Abusing or threatening to abuse the law or legal process;

(d) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;

(e) Extortion; or

(f) Causing or threatening to cause financial harm to any person,

↪ is guilty of holding a person in involuntary servitude.

2. A person who is found guilty of holding a person in involuntary servitude is guilty of a category B felony and shall be punished:

(a) Where the victim suffers substantial bodily harm while held in involuntary servitude or in attempted escape or escape therefrom, by imprisonment in the state prison for a minimum term of not less than 7 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$50,000.

(b) Where the victim suffers no substantial bodily harm as a result of being held in involuntary servitude, by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$50,000.

Sec. 4. A person who knowingly:

1. Recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be held in involuntary servitude; or

2. Benefits, financially or by receiving anything of value, from participating in a violation of section 3 of this act,

↪ is guilty of a category B felony and 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 15 years, and may be further punished by a fine of not more than \$50,000.



Sec. 5. NRS 200.465 is hereby amended to read as follows:

200.465 A person who:

1. ~~1. Holds or attempts to hold a person in involuntary servitude;~~

~~2.~~ Assumes or attempts to assume rights of ownership over another person;

~~3.~~ 2. Sells or attempts to sell a person to another;

~~4.~~ 3. Receives money or anything of value in consideration of placing a person in the custody or under the control of another;

~~5.~~ 4. Buys or attempts to buy a person;

~~6.~~ 5. Except as otherwise provided in chapter 127 of NRS, pays money or delivers anything of value to another in consideration of having a person placed in his custody or under his power or control; or

~~7.~~ 6. Knowingly aids or assists in any manner a person who violates any provision of this section,

➔ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$50,000.

Sec. 6. NRS 207.012 is hereby amended to read as follows:

207.012 1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,

➔ is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. The district attorney shall include a count under this section in any information or shall file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.465, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS



202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.333, 484.219 or 484.3795 **or section 3 or 4 of this act.**

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

Sec. 7. NRS 41.690 is hereby amended to read as follows:

41.690 1. A person who has suffered injury as the proximate result of the willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, 200.465, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 **or section 3 or 4 of this act** by a perpetrator who was motivated by the injured person's actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation **or** may bring an action for the recovery of his actual damages and any punitive damages which the facts may warrant. If the person who has suffered injury prevails in an action brought pursuant to this subsection, the court shall award him costs and reasonable attorney's fees.

2. The liability imposed by this section is in addition to any other liability imposed by law.

Sec. 8. NRS 127.300 is hereby amended to read as follows:

127.300 1. Except as otherwise provided in NRS 127.275, 127.285 and 200.465, **and sections 3 and 4 of this act**, a person who, without holding a valid license to operate a child-placing agency issued by the Division, requests or receives, directly or indirectly, any compensation or thing of value for placing, arranging the placement of, or assisting in placing or arranging the placement of **or** any child for adoption or permanent free care is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. The natural parents and the adopting parents are not accomplices for the purpose of this section.

Sec. 9. NRS 128.097 is hereby amended to read as follows:

128.097 If a parent of a child:

1. Engages in conduct that violates any provision of NRS 200.465 **or section 3 or 4 of this act**; or

2. Voluntarily delivers a child to a provider of emergency services pursuant to NRS 432B.630,

➡ the parent is presumed to have abandoned the child.



Sec. 10. NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.465 ~~or~~ **section 3 or 4 of this act.**

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

6. Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

7. Unexplained injury or death of a sibling of the child.

8. Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.

Sec. 11. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes ~~is~~ is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny, theft if it is punishable as a felony, or pandering;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;



(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.465, 202.265, 202.287, 205.473 to 205.513, inclusive, and 205.610 to 205.810, inclusive, or 465.070 to 465.085, inclusive ~~1-1~~, or section 3 or 4 of this act.

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 12. NRS 613.080 is hereby amended to read as follows:

613.080 1. The immigration to this State of all slaves and other people bound by contract to involuntary servitude for a term of years is hereby prohibited.

2. It ~~shall be~~ is unlawful for any company, person or persons to collect the wages or compensation for the labor of the persons described in subsection 1.



- 1 3. It ~~{shall-be}~~ *is* unlawful for any corporation, company,
2 person or persons to pay to any owner or agent of the owner of any
3 such persons mentioned in subsection 1 any wages or compensation
4 for the labor of such slaves or persons so bound by the contract to
5 involuntary servitude.
- 6 4. ~~{Any}~~ *Unless a greater penalty is provided in section 3 or 4*
7 *of this act, a* violation of any of the provisions of this section ~~{shall~~
8 ~~be}~~ *is* a gross misdemeanor.



