

Amendment No. 1078

Assembly Amendment to Senate Bill No. 488 First Reprint (BDR 15-1086)

Proposed by: Assembly Committee on Judiciary

Amendment Box: Replaces Amendment No. 1059.

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

MNM/BAW



Date: 6/1/2017

S.B. No. 488—Revises provisions relating to sexual offenses. (BDR 15-1086)



SENATE BILL NO. 488—SENATORS SPEARMAN, CANCELA, WOODHOUSE, PARKS;
DENIS, FARLEY AND FORD

MARCH 27, 2017

JOINT SPONSORS: ASSEMBLYMEN MILLER, JOINER,
DIAZ; NEAL, SPIEGEL AND THOMPSON

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to ~~sexual offenses;~~ certain crimes.
(BDR 15-1086)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 ~~sexual offenses;~~ crimes; establishing ~~additional acts that constitute~~ the crime of facilitating sex trafficking; establishing a rebuttable presumption that certain children who commit the crime of sex trafficking or facilitating sex trafficking are acting under duress; establishing the privilege of confidential communication between persons who are victims of human trafficking and certain advocates for those victims; requiring the Department of Health and Human Services to develop a Medicaid service package to assist victims of sexual trauma who are eligible for Medicaid; authorizing the Department to adopt regulations relating to the development of such a Medicaid service package; requiring the Department to hold certain periodic meetings relating to sex trafficking; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain specific acts that constitute the crime of sex trafficking and sets forth the penalties imposed upon a person who is found guilty of sex trafficking. Such penalties vary depending on whether the victim of sex trafficking is an adult or a child and, if a child, the age of the child. (NRS 201.300) **Section ~~HH~~ 3** of this bill establishes the crime of facilitating sex trafficking and provides that a person is guilty of ~~sex trafficking~~ such a crime if he or she: (1) facilitates, arranges, provides or pays for the transportation of a person to or within this State ~~for~~ with the purpose of causing 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) ~~advertises;~~ sells ~~for offers to sell~~ 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 ~~for with the purpose~~ intent of engaging in sexual conduct with a victim of sex trafficking with the knowledge that the victim ~~is compelled~~ has been induced to engage in sexual conduct or prostitution or engaging in certain acts relating to pornography involving minors. Section 3 provides that a person who is guilty 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 a child. Section 4 of this bill provides that if a person who is less than 18 years of age and is a victim of sex trafficking or facilitating sex trafficking commits the crime of sex trafficking or facilitating sex trafficking and is prosecuted in a criminal proceeding as an adult, there is a rebuttable presumption that the person acted under duress.

Existing law establishes a privilege for confidential communication between a victim of certain crimes and a victim's advocate who works for a nonprofit program that provides assistance to victims of those crimes. (NRS 49.2541-49.2549) Section 6 of this bill defines the crime of "human trafficking," and section 8 of this bill revises the definition of "victim" to include a person who alleges that an act of human trafficking has been committed against the person, thus authorizing the person to assert the privilege of confidential communication between the person and a victim's advocate.

Section ~~12~~ 9 of this bill requires the Department of Health and Human Services to develop a Medicaid service package called the Sexual Trauma Services Guide for the purpose of assisting victims of sexual trauma who are eligible for Medicaid. Section ~~12~~ 9 requires the Department to post information relating to the Sexual Trauma Services Guide on the Internet website of the Department and to make such information available to any person upon request at the office of the Department. Section ~~12~~ 9 also authorizes the Department to adopt regulations relating to the development of the Sexual Trauma Services Guide.

In 2016, the Governor established by executive order the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children. (Executive Order 2016-14 (5-31-2016)) The Coalition is required to prepare a comprehensive statewide strategic plan and recommendations regarding how to address certain provisions of federal law relating to sex trafficking. Section ~~12~~ 10 of this bill requires the Department to hold periodic informational meetings for the purpose of coordinating the efforts of various entities to improve services for victims of sex trafficking and achieve the goals set forth in the statewide strategic plan developed by the Coalition.

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

Section 1. ~~NRS 201.200 is hereby amended to read as follows:~~

~~201.200 1. A person who without physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or to continue to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution is guilty of pandering which is a category C felony and shall be punished as provided in NRS 193.130. This subsection does not apply to the customer of a prostitute.~~

~~2. A person:~~

~~(a) Is guilty of sex trafficking if the person:~~

~~(1) Induces, causes, recruits, harbors, transports, provides, obtains or maintains a child to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution;~~

~~(2) Induces, recruits, harbors, transports, provides, obtains or maintains a person by any means, knowing, or in reckless disregard of the fact, that threats,~~

1 ~~violence, force, intimidation, fraud, duress or coercion will be used to cause the~~
2 ~~person to engage in prostitution, or to enter any place within this State in which~~
3 ~~prostitution is practiced, encouraged or allowed for the purpose of sexual conduct~~
4 ~~or prostitution;~~

5 ~~(3) By threats, violence, force, intimidation, fraud, duress, coercion, by any~~
6 ~~device or scheme, or by abuse of any position of confidence or authority, or having~~
7 ~~legal charge, takes, places, harbors, induces, causes, compels or procures a person~~
8 ~~to engage in prostitution, or to enter any place within this State in which~~
9 ~~prostitution is practiced, encouraged or allowed for the purpose of sexual conduct~~
10 ~~or prostitution; [or]~~

11 ~~(4) Facilitates, arranges, provides or pays for the transportation of a~~
12 ~~person to or within this State for the purpose of:~~

13 ~~(I) Causing the person to engage in prostitution in violation of~~
14 ~~subparagraph (1), (2) or (3);~~

15 ~~(II) Causing the person to enter any place within this State in which~~
16 ~~prostitution is practiced, encouraged or allowed for the purpose of sexual conduct~~
17 ~~or prostitution in violation of subparagraph (1), (2) or (3); or~~

18 ~~(III) If the person is a child, using the person for any act that is~~
19 ~~prohibited by NRS 200.710 or 200.720;~~

20 ~~(5) Advertises, sells or offers to sell travel services that facilitate the~~
21 ~~travel of another person to this State with the knowledge that the other person is~~
22 ~~traveling to this State for the purpose of:~~

23 ~~(I) Engaging in sexual conduct with a person who is compelled to~~
24 ~~engage in sexual conduct or prostitution in violation of subparagraph (1), (2) or~~
25 ~~(3);~~

26 ~~(II) Soliciting a child who is compelled to engage in sexual conduct~~
27 ~~or prostitution in violation of subparagraph (1), (2) or (3); or~~

28 ~~(III) Engaging in any act involving a child that is prohibited by NRS~~
29 ~~200.710 or 200.720;~~

30 ~~(6) Travels to or within this State by any means for the purpose of~~
31 ~~engaging in:~~

32 ~~(I) Sexual conduct with a person who is compelled to engage in~~
33 ~~sexual conduct or prostitution in violation of subparagraph (1), (2) or (3), with~~
34 ~~the knowledge that such a person is compelled to engage in such sexual conduct~~
35 ~~or prostitution; or~~

36 ~~(II) Any act involving a child that is prohibited by NRS 200.710 or~~
37 ~~200.720; or~~

38 ~~(7) Takes or detains a person with the intent to compel the person by force,~~
39 ~~violence, threats or duress to marry him or her or any other person.~~

40 ~~(b) Who is found guilty of sex trafficking:~~

41 ~~(1) An adult is guilty of a category B felony and shall be punished by~~
42 ~~imprisonment in the state prison for a minimum term of not less than 2 years and a~~
43 ~~maximum term of not more than 10 years, and may be further punished by a fine of~~
44 ~~not more than \$10,000.~~

45 ~~(2) A child:~~

46 ~~(I) If the child is less than 14 years of age when the offense is~~
47 ~~committed, is guilty of a category A felony and shall be punished by imprisonment~~
48 ~~in the state prison for life with the possibility of parole, with eligibility for parole~~
49 ~~beginning when a minimum of 15 years has been served, and may be further~~
50 ~~punished by a fine of not more than \$20,000.~~

51 ~~(II) If the child is at least 14 years of age but less than 16 years of age~~
52 ~~when the offense is committed, is guilty of a category A felony and shall be~~
53 ~~punished by imprisonment in the state prison for life with the possibility of parole;~~

1 ~~with eligibility for parole beginning when a minimum of 10 years has been served,~~
2 ~~and may be further punished by a fine of not more than \$10,000.~~

3 ~~(III) If the child is at least 16 years of age but less than 18 years of age~~
4 ~~when the offense is committed, is guilty of a category A felony and shall be~~
5 ~~punished by imprisonment in the state prison for life with the possibility of parole,~~
6 ~~with eligibility for parole beginning when a minimum of 5 years has been served,~~
7 ~~and may be further punished by a fine of not more than \$10,000.~~

8 ~~3. A court shall not grant probation to or suspend the sentence of a person~~
9 ~~convicted of sex trafficking a child pursuant to subsection 2.~~

10 ~~4. Consent of a victim of pandering or sex trafficking to an act of prostitution~~
11 ~~is not a defense to a prosecution for any of the acts prohibited by this section.~~

12 ~~5. In a prosecution for sex trafficking a child pursuant to subsection 2, it is not~~
13 ~~a defense that the defendant did not have knowledge of the victim's age, nor is~~
14 ~~reasonable mistake of age a valid defense to a prosecution conducted pursuant to~~
15 ~~subsection 2.~~ (Deleted by amendment.)

16 Sec. 2. Chapter 201 of NRS is hereby amended by adding thereto the
17 provisions set forth as sections 3 and 4 of this act.

18 Sec. 3. 1. A person is guilty of facilitating sex trafficking if the person:
19 (a) Facilitates, arranges, provides or pays for the transportation of a person
20 to or within this State with the intent of:

21 (1) Inducing the person to engage in prostitution in violation of
22 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300;

23 (2) Inducing the person to enter any place within this State in which
24 prostitution is practiced, encouraged or allowed for the purpose of sexual conduct
25 or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of
26 subsection 2 of NRS 201.300; or

27 (3) If the person is a child, using the person for any act that is prohibited
28 by NRS 200.710 or 200.720;

29 (b) Sells travel services that facilitate the travel of another person to this
30 State with the knowledge that the other person is traveling to this State for the
31 purpose of:

32 (1) Engaging in sexual conduct with a person who has been induced to
33 engage in sexual conduct or prostitution in violation of subparagraph (1), (2) or
34 (3) of paragraph (a) of subsection 2 of NRS 201.300;

35 (2) Soliciting a child who has been induced to engage in sexual conduct
36 or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of
37 subsection 2 of NRS 201.300; or

38 (3) Engaging in any act involving a child that is prohibited by NRS
39 200.710 or 200.720; or

40 (c) Travels to or within this State by any means with the intent of engaging
41 in:

42 (1) Sexual conduct with a person who has been induced to engage in
43 sexual conduct or prostitution in violation of subparagraph (1), (2) or (3) of
44 paragraph (a) of subsection 2 of NRS 201.300, with the knowledge that such a
45 person has been induced to engage in such sexual conduct or prostitution; or

46 (2) Any act involving a child that is prohibited by NRS 200.710 or
47 200.720.

48 2. A person who is found guilty of facilitating sex trafficking is guilty of a
49 category B felony and:

50 (a) If the victim is 18 years of age or older, shall be punished by
51 imprisonment in the state prison for a minimum term of not less than 1 year and
52 a maximum term of not more than 6 years.

(b) If the victim is less than 18 years of age, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years.

Sec. 4. If a violation of NRS 201.300 or section 3 of this act is committed by a person who is:

1. Less than 18 years of age at the time of the commission of the violation;

2. Prosecuted in a criminal proceeding as an adult; and

3. A victim of sex trafficking or facilitating sex trafficking,

there is a rebuttable presumption that the person who committed the violation acted under duress.

Sec. 5. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, and sections 3 and 4 of this act, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. "Child" means a person less than 18 years of age.

3. "Induce" means to persuade, encourage, inveigle or entice.

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

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

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 6. Chapter 49 of NRS is hereby amended by adding thereto a new section to read as follows:

"Human trafficking" means a violation of any provision of NRS 200.463 to 200.468, inclusive, 201.300 or 201.320 or 18 U.S.C. § 1589, 1590 or 1591.

Sec. 7. NRS 49.2541 is hereby amended to read as follows:

49.2541 As used in NRS 49.2541 to 49.2549, inclusive, and section 6 of this act, the words and terms defined in NRS 49.2542 to 49.2545, inclusive, and section 6 of this act have the meanings ascribed to them in those sections.

Sec. 8. NRS 49.2544 is hereby amended to read as follows:

49.2544 "Victim" means a person who alleges that an act of domestic violence, human trafficking or sexual assault has been committed against the person.

~~Sec. 2.~~ Sec. 9. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. To the extent authorized by federal law, the Department shall develop a Medicaid service package called the Sexual Trauma Services Guide for the purpose of assisting victims of sexual trauma who are eligible for Medicaid.

2. The Department shall post information relating to the Sexual Trauma Services Guide, including, without limitation, information concerning the available services to which victims of sexual trauma are entitled, on the Internet website maintained by the Department and shall make such information available to any person upon request at the office of the Department.

3. The Department may adopt any regulations necessary to carry out the provisions of this section.

~~Sec. 3.~~ Sec. 10. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1 *The Department shall periodically hold informational meetings, as deemed*
2 *appropriate by the Director, for the purpose of coordinating the efforts of various*
3 *entities associated with the provision of services for victims of sex trafficking to*
4 *improve such services, including, without limitation, to ensure that any*
5 *applicable funding received by such entities is used in the most effective and*
6 *efficient way possible to assist victims of sex trafficking and to achieve the goals*
7 *set forth in the statewide strategic plan developed by the Nevada Coalition to*
8 *Prevent the Commercial Sexual Exploitation of Children, established by the*
9 *Governor pursuant to Executive Order 2016-14, issued on May 31, 2016.*