

Amendment No. 128

Senate Amendment to Senate Bill No. 7	(BDR 15-406)
Proposed by: Senate Committee on Judiciary	
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: 4/18/2019

S.B. No. 7—Revises provisions relating to the prohibition against soliciting a child for prostitution. (BDR 15-406)



SENATE BILL NO. 7—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 14, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the ~~[prohibition]~~ prohibitions against ~~[soliciting a child for prostitution]~~ facilitating sex trafficking and pandering. (BDR 15-406)

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 circumstances that constitute pandering; providing that a person who ~~[knowingly]~~ solicits a child ~~[who is less than 14 years of age for]~~ or another person who the person believes to be a child to engage in prostitution is guilty of facilitating sex trafficking; providing ~~[a penalty]~~ penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[—Existing law prohibits any person from engaging in prostitution or solicitation therefor except in a licensed house of prostitution. Existing law provides that a customer who violates such a prohibition by soliciting a child for prostitution is guilty: (1) for a first offense, of a category E felony; (2) for a second offense, of a category D felony; and (3) for a third or subsequent offense, of a category C felony. (NRS 201.354)]~~

~~—This bill additionally provides that a customer who violates such a prohibition by knowingly soliciting a child who is less than 14 years of age for prostitution commits sex trafficking and is guilty of a category A felony. Such a person is required to be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when the person has served a minimum of 15 years, and may be further punished by a fine of not more than \$20,000. In addition to increasing the penalty for such a crime, by providing that knowingly soliciting a child less than 14 years of age for prostitution constitutes sex trafficking, this bill has the following collateral consequences: (1) authorizing a victim to bring a civil action against any person who caused, was responsible for or profited from the crime (NRS 41.1399); (2) extending the period within which a criminal action must be commenced under certain circumstances (NRS 171.083, 171.085, 171.095); (3) authorizing a court to order the taking and use at trial of a videotaped deposition or testimony of a victim (NRS 174.227-174.229); (4) making any personal property and conveyances used in the commission of the crime subject to forfeiture (NRS 179.121); (5) authorizing application for a court order authorizing the interception of wire, electronic or oral communications to obtain evidence of such a crime (NRS 179.460); (6) making the crime constitute a “crime against a child” and a “sexual offense” for the purposes of registration and community notification pursuant to chapter 179D of NRS (NRS 179D.0357, 179D.097, 179D.115); (7) increasing the punishment for conspiracy to commit such a crime (NRS 199.480); (8) providing for the~~

confidentiality of the identity of a victim (NRS 200.377-200.3774); (9) requiring the reporting of the crime to law enforcement by certain persons under certain circumstances (NRS 202.870-202.894); and (10) entitling the child to apply for compensation from the Fund for the Compensation of Victims of Crime (chapter 217 of NRS).]

Existing law establishes the circumstances in which a person is guilty of facilitating sex trafficking. (NRS 201.301) Section 2 of this bill additionally provides that a person is guilty of facilitating sex trafficking if he or she solicits a child or another person who the person believes to be a child, regardless of the actual age of the other person, to engage in prostitution. Section 5 of this bill makes conforming changes.

Existing law provides that a person found guilty of facilitating sex trafficking is guilty of a category B felony and, if the victim is less than 18 years of age, is required to 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. (NRS 201.301) Section 2 imposes such a penalty on a person if the person believed the victim to be less than 18 years of age.

Section 2 provides that in the prosecution of a person for facilitating sex trafficking in which the person solicited a child or another person who the person believed to be a child: (1) unless the offense was committed in a licensed house of prostitution, it is not a defense that the person did not have knowledge of the victim's age; and (2) reasonable mistake of age is not a valid defense. Section 2 also provides that in such a prosecution, the State has the burden of establishing that a person who engaged in sexual conduct with a child in a licensed house of prostitution had knowledge of the victim's age unless the person is an owner, operator, employee or contractor of the licensed house of prostitution, in which case there is a rebuttable presumption that such persons had knowledge of the victim's age.

Existing law provides that the Attorney General has concurrent jurisdiction with the district attorneys of the counties in this State to prosecute a person who commits the crimes of pandering, sex trafficking or living from the earnings of a prostitute. (NRS 201.345) Section 3 of this bill provides that the Attorney General also has such concurrent jurisdiction to prosecute a person who commits the crime of facilitating sex trafficking.

Existing law authorizes a court to impose additional fines in certain circumstances if a person is convicted of sex trafficking or living from the earnings of a prostitute. (NRS 201.352) Section 4 of this bill authorizes the imposition of such additional fines if a person is convicted of facilitating sex trafficking.

Existing law defines the term "crime related to racketeering" as the commission of, attempt to commit or conspiracy to commit certain crimes, including pandering, sex trafficking, living from the earnings of a prostitute or placing a person in a house of prostitution. (NRS 207.360) Section 6 of this bill additionally includes the crime of facilitating sex trafficking in such a definition.

Existing law provides that a person commits pandering and is guilty of a category C felony if the person, without physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or 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. Existing law also provides that such provisions do not apply to the customer of a prostitute. (NRS 201.300) Section 1 of this bill specifies that such provisions do not apply to the customer of a prostitute in a licensed house of prostitution unless the customer believed that the prostitute was a child.

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

Section 1. NRS 201.300 is hereby amended to read as follows:

201.300 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 ~~if~~ in a licensed house of prostitution unless the customer believed that the prostitute was a child.

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, violence, force, intimidation, fraud, duress or coercion will be used to cause the person 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;

(3) By threats, violence, force, intimidation, fraud, duress, coercion, by any device or scheme, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, induces, causes, compels or procures a person 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; or

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

(b) Who is found guilty of sex trafficking ~~if~~ a victim who is:

(1) An adult 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 3 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(2) A child:

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

(II) If the child is at least 14 years of age but less than 16 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

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

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

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

5. In a prosecution for sex trafficking a child pursuant to subsection 2, it is not a defense that the defendant did not have knowledge of the victim's age, nor is

reasonable mistake of age a valid defense to a prosecution conducted pursuant to subsection 2.

Sec. 2. NRS 201.301 is hereby amended to read as follows:

201.301 1. A person is guilty of facilitating sex trafficking if the person:

(a) Facilitates, arranges, provides or pays for the transportation of a person to or within this State with the intent of:

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

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

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

(b) 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:

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

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

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

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

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

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

~~for~~; or

(d) Solicits a child, or another person who the person believes to be a child, regardless of the actual age of the other person, to engage in prostitution.

2. In a prosecution for facilitating sex trafficking pursuant to paragraph (d) of subsection 1:

(a) Unless the offense was committed in a licensed house of prostitution, it is not a defense that the defendant did not have knowledge of the victim's age.

(b) Reasonable mistake of age is not a valid defense.

(c) Except as otherwise provided in paragraph (d), the State has the burden of establishing that a person who engaged in sexual conduct with a child in a licensed house of prostitution had knowledge of the victim's age.

(d) There is a rebuttable presumption that any owner, operator, employee or contractor of a licensed house of prostitution who engaged in sexual conduct with a child in the licensed house of prostitution had knowledge of the victim's age.

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

(a) If the victim is 18 years of age or older, 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 6 years.

(b) If the victim is less than 18 years of age, or if the person who is found guilty of facilitating sex trafficking believed that the victim was less than 18 years

1 of age, shall be punished by imprisonment in the state prison for a minimum term
2 of not less than 3 years and a maximum term of not more than 10 years.

3 **Sec. 3. NRS 201.345 is hereby amended to read as follows:**

4 201.345 1. The Attorney General has concurrent jurisdiction with the
5 district attorneys of the counties in this State to prosecute any violation of NRS
6 201.300, 201.301 or 201.320.

7 2. When acting pursuant to this section, the Attorney General may commence
8 an investigation and file a criminal action without leave of court and the Attorney
9 General has exclusive charge of the conduct of the prosecution.

10 **Sec. 4. NRS 201.352 is hereby amended to read as follows:**

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

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

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

27 ~~[Section 1.]~~ **Sec. 5. NRS 201.354 is hereby amended to read as follows:**

28 201.354 1. It is unlawful for any person to engage in prostitution or
29 solicitation therefor, except in a licensed house of prostitution.

30 2. A prostitute who violates subsection 1 is guilty of a misdemeanor.

31 3. Except as otherwise provided in subsection 5, a customer who violates
32 subsection 1:

33 (a) For a first offense, is guilty of a misdemeanor and shall be punished as
34 provided in NRS 193.150, and by a fine of not less than \$400.

35 (b) For a second offense, is guilty of a gross misdemeanor and shall be
36 punished as provided in NRS 193.140, and by a fine of not less than \$800.

37 (c) For a third or subsequent offense, is guilty of a gross misdemeanor and
38 shall be punished as provided in NRS 193.140, and by a fine of not less than
39 \$1,300.

40 4. In addition to any other penalty imposed, the court shall order a person who
41 violates subsection 3 to pay a civil penalty of not less than \$200 per offense. The
42 civil penalty must be paid to the district attorney or city attorney of the jurisdiction
43 in which the violation occurred. If the civil penalty imposed pursuant to this
44 subsection:

45 (a) Is not within the person's present ability to pay, in lieu of paying the
46 penalty, the court may allow the person to perform community service for a
47 reasonable number of hours, the value of which would be commensurate with the
48 civil penalty.

49 (b) Is not entirely within the person's present ability to pay, in lieu of paying
50 the entire civil penalty, the court may allow the person to perform community
51 service for a reasonable number of hours, the value of which would be
52 commensurate with the amount of the reduction of the civil penalty.

53 5. A customer who violates subsection 1 ~~is~~

~~1 (a) Except as otherwise provided in paragraph (b),~~ by soliciting a child for
2 prostitution. ~~3~~

~~3 (a) (1) For a first offense, is guilty of a category E felony and shall be
4 punished as provided in NRS 193.130, and by a fine of not more than \$5,000.~~

~~4 (b) (2) For a second offense, is guilty of a category D felony and shall be
5 punished as provided in NRS 193.130.~~

~~5 (c) (3) For a third or subsequent offense, is guilty of a category C felony and
6 shall be punished as provided in NRS 193.130. The court shall not grant probation
7 to or suspend the sentence of a person punished pursuant to this paragraph.
8 subparagraph.~~

~~8 (b) By knowingly soliciting a child who is less than 14 years of age for
9 prostitution is guilty of facilitating sex trafficking and shall be punished as
10 provided in ~~sub-subparagraph (1) of subparagraph (2) of paragraph (b) of~~
11 ~~subsection 2 of] NRS [201.300.] 201.301.~~~~

6. Any civil penalty collected by a district attorney or city attorney pursuant
12 to subsection 4 must be deposited in the county or city treasury, as applicable, to be
13 used for:

(a) The enforcement of this section; and

(b) Programs of treatment for persons who solicit prostitution which are
14 certified by the Division of Public and Behavioral Health of the Department of
15 Health and Human Services.

➤ Not less than 50 percent of the money deposited in the county or city treasury, as
16 applicable, pursuant to this subsection must be used for the enforcement of this
17 section.

7. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or
18 5.055 to participate in a program for the treatment of persons who solicit
19 prostitution, upon fulfillment of the terms and conditions of the program, the court
20 may discharge the person and dismiss the proceedings against the person. If the
21 court discharges the person and dismisses the proceedings against the person, a
22 nonpublic record of the discharge and dismissal must be transmitted to and retained
23 by the Division of Parole and Probation of the Department of Public Safety solely
24 for the use of the courts in determining whether, in later proceedings, the person
25 qualifies under this section for participation in a program of treatment for persons
26 who solicit prostitution. Except as otherwise provided in this subsection, discharge
27 and dismissal under this subsection is without adjudication of guilt and is not a
28 conviction for purposes of employment, civil rights or any statute or regulation or
29 license or questionnaire or for any other public or private purpose, but is a
30 conviction for the purpose of additional penalties imposed for a second or
31 subsequent conviction or the setting of bail. Discharge and dismissal restores the
32 person discharged, in the contemplation of the law, to the status occupied before the
33 proceedings. The person may not be held thereafter under any law to be guilty of
34 perjury or otherwise giving a false statement by reason of failure to recite or
35 acknowledge the proceedings in response to an inquiry made of the person for any
36 purpose. Discharge and dismissal under this subsection may occur only once with
37 respect to any person. A professional licensing board may consider a proceeding
38 under this subsection in determining suitability for a license or liability to discipline
39 for misconduct. Such a board is entitled for those purposes to a truthful answer
40 from the applicant or licensee concerning any such proceeding with respect to the
41 applicant or licensee.

8. Except as limited by subsection 9, if a person is discharged and the
42 proceedings against the person are dismissed pursuant to subsection 7, the court
43 shall, without a hearing, order sealed all documents, papers and exhibits in that
44 person's record, minute book entries and entries on dockets, and other documents
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relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

9. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

Sec. 6. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery, including, without limitation, forgery of a credit card or debit card in violation of NRS 205.740;
14. Obtaining and using personal identifying information of another person in violation of NRS 205.463;
15. Establishing or possessing a financial forgery laboratory in violation of NRS 205.46513;
16. Any violation of NRS 199.280 which is punished as a felony;
17. Burglary;
18. Grand larceny;
19. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
20. Battery with intent to commit a crime in violation of NRS 200.400;
21. Assault with a deadly weapon;
22. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, except a violation of NRS 453.3393, or NRS 453.375 to 453.401, inclusive;
23. Receiving or transferring a stolen vehicle;
24. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
25. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
26. Receiving, possessing or withholding stolen goods valued at \$650 or more;
27. Embezzlement of money or property valued at \$650 or more;
28. Obtaining possession of money or property valued at \$650 or more, or obtaining a signature by means of false pretenses;
29. Perjury or subornation of perjury;
30. Offering false evidence;
31. Any violation of NRS 201.300, 201.301, 201.320 or 201.360;

1 32. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud
2 pursuant to NRS 686A.291;

3 33. Any violation of NRS 205.506, 205.920 or 205.930;

4 34. Any violation of NRS 202.445 or 202.446;

5 35. Any violation of NRS 205.377;

6 36. Involuntary servitude in violation of any provision of NRS 200.463 or
7 200.464 or a violation of any provision of NRS 200.465; or

8 37. Trafficking in persons in violation of any provision of NRS 200.467 or
9 200.468.

10 ~~[Sec. 2.]~~ **Sec. 7.** This act becomes effective on July 1, 2019.