

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 against soliciting a child for prostitution. (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 ~~fornited material~~ is material to be omitted.

AN ACT relating to crimes; providing that a person who knowingly solicits a child who is less than 14 years of age for prostitution is guilty of sex trafficking; providing a penalty; 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).

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

Section 1. NRS 201.354 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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



5. A customer who violates subsection 1 :
(a) *Except as otherwise provided in paragraph (b)*, by soliciting a child for prostitution:

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

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

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

(b) *By knowingly soliciting a child who is less than 14 years of age for prostitution is guilty of sex trafficking and shall be punished as provided in sub-subparagraph (1) of subparagraph (2) of paragraph (b) of subsection 2 of NRS 201.300.*

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

(a) The enforcement of this section; and

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

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

7. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge



1 and dismissal restores the person discharged, in the contemplation
2 of the law, to the status occupied before the proceedings. The person
3 may not be held thereafter under any law to be guilty of perjury or
4 otherwise giving a false statement by reason of failure to recite or
5 acknowledge the proceedings in response to an inquiry made of the
6 person for any purpose. Discharge and dismissal under this
7 subsection may occur only once with respect to any person. A
8 professional licensing board may consider a proceeding under this
9 subsection in determining suitability for a license or liability to
10 discipline for misconduct. Such a board is entitled for those
11 purposes to a truthful answer from the applicant or licensee
12 concerning any such proceeding with respect to the applicant or
13 licensee.

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

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

28 **Sec. 2.** This act becomes effective on July 1, 2019.

