

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 prohibitions against 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 solicits a child or another person who the person believes to be a child to engage in prostitution is guilty of facilitating sex trafficking; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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 ***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 ~~(4)~~ **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 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. 3. NRS 201.345 is hereby amended to read as follows:

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

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

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

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



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

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

Sec. 5. 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 by soliciting a child for prostitution ~~;~~

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

~~—(c) 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.~~ ***is guilty of facilitating sex trafficking and shall be punished as provided in NRS 201.301.***

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 and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the



1 person for any purpose. Discharge and dismissal under this
2 subsection may occur only once with respect to any person. A
3 professional licensing board may consider a proceeding under this
4 subsection in determining suitability for a license or liability to
5 discipline for misconduct. Such a board is entitled for those
6 purposes to a truthful answer from the applicant or licensee
7 concerning any such proceeding with respect to the applicant or
8 licensee.

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

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

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

24 207.360 "Crime related to racketeering" means the commission
25 of, attempt to commit or conspiracy to commit any of the following
26 crimes:

- 27 1. Murder;
- 28 2. Manslaughter, except vehicular manslaughter as described in
29 NRS 484B.657;
- 30 3. Mayhem;
- 31 4. Battery which is punished as a felony;
- 32 5. Kidnapping;
- 33 6. Sexual assault;
- 34 7. Arson;
- 35 8. Robbery;
- 36 9. Taking property from another under circumstances not
37 amounting to robbery;
- 38 10. Extortion;
- 39 11. Statutory sexual seduction;
- 40 12. Extortionate collection of debt in violation of
41 NRS 205.322;
- 42 13. Forgery, including, without limitation, forgery of a credit
43 card or debit card in violation of NRS 205.740;
- 44 14. Obtaining and using personal identifying information of
45 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;

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

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

34. Any violation of NRS 202.445 or 202.446;

35. Any violation of NRS 205.377;

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

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

Sec. 7. This act becomes effective on July 1, 2019.

