

ASSEMBLY BILL NO. 64—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain crimes.
(BDR 15-407)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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; changing the penalties for certain unlawful acts relating to preventing or dissuading certain persons from testifying or producing evidence; increasing the penalties for certain unlawful acts relating to preventing, dissuading, hindering or delaying certain persons from reporting a crime, commencing prosecution or causing arrest; revising provisions concerning soliciting a child for prostitution; increasing and creating civil penalties for certain unlawful acts relating to customers who engage in and solicit for prostitution; revising provisions relating to certain unlawful acts relating to advertising for prostitution; increasing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who commits certain unlawful acts relating to preventing or dissuading persons from testifying or producing evidence is guilty of: (1) a category D felony, where physical force or the immediate threat of physical force is used; or (2) a gross misdemeanor, where no physical force or immediate threat of physical force is used. (NRS 199.230) **Section 1** of this bill changes the penalties for such unlawful acts to: (1) a category B felony punishable by imprisonment in the state prison for a minimum term of 1 year and a maximum term of 6 years, if the underlying action or proceeding involves a crime relating to



sex trafficking, pandering or prostitution; (2) a category C felony under certain circumstances where physical force or the immediate threat of physical force is used; and (3) a gross misdemeanor for all other circumstances.

Existing law provides that a person who commits certain unlawful acts relating to preventing, dissuading, hindering or delaying a victim, a person acting on behalf of the victim or a witness reporting a crime or possible crime, commence a prosecution or cause an arrest is guilty of a category D felony. (NRS 199.305) **Section 2** of this bill increases the penalties for such unlawful acts to: (1) a category B felony, punishable by imprisonment in the state prison for a minimum term of 1 year and a maximum term of 6 years, if the crime or possible crime involved in the underlying action or proceeding relates to sex trafficking, pandering or prostitution; or (2) a category C felony for all other circumstances.

Existing law provides that a person is guilty of soliciting a child for prostitution if the person solicits: (1) a peace officer posing as a child; or (2) a person assisting a peace officer by posing as a child. (NRS 201.354) **Section 3** of this bill provides that a person is guilty of soliciting a child for prostitution if the person solicits: (1) a child; or (2) any person believed to be a child.

Existing law makes it unlawful for any person to engage in prostitution or solicitation for prostitution, except in a licensed house of prostitution. Existing law, in addition to any other penalty, imposes a civil penalty of not less than \$200 per offense against a customer of any person engaged in unlawful prostitution. (NRS 201.354) **Section 3** increases this civil penalty to not less than \$500 per offense. **Section 3** also imposes a civil penalty of not less than \$1,000 per offense against a customer who solicits a child for prostitution.

Existing law requires the money collected from the civil penalty imposed against a customer of a person engaged in unlawful prostitution to be used for: (1) the enforcement of the provisions of law concerning engagement in and solicitation of prostitution; and (2) certain programs of treatment for persons who solicit prostitution. (NRS 201.354) **Section 3** requires the money collected from the civil penalties imposed on customers to be used instead to fund a program to provide support for children who are victims of crime in the city or county, as applicable.

Existing law makes it unlawful for: (1) a person who commits vagrancy, by engaging in certain acts related to prostitution, to advertise such vagrancy; and (2) certain persons associated with a house of prostitution to advertise the house of prostitution in any public theater, on the public streets of any city or town, on any public highway, or in any county, city or town where prostitution is unlawful pursuant to a local ordinance or where the licensing of a house of prostitution is unlawful pursuant to state statute. Existing law also prohibits the preparation or printing of an advertisement concerning an unlicensed house of prostitution or certain acts constituting vagrancy in any county, city or town where prostitution is unlawful pursuant to a local ordinance or where the licensing of a house of prostitution is unlawful pursuant to state statute. (NRS 201.430) **Section 4** of this bill removes the existing prohibitions on such advertising and instead prohibits knowingly advertising for prostitution, or in a manner that induces a person to engage in prostitution, in any county, city or town where prostitution is unlawful pursuant to local ordinance or where the licensing of a house of prostitution is unlawful pursuant to state statute.

Existing law also requires that a person who commits an unlawful act related to advertising for prostitution be punished: (1) for the first violation within a 3-year period, by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment; (2) for a second violation within a 3-year period, by imprisonment in the county jail for not less than 30 days nor more than 6 months, and by a fine of not less than \$250 nor more than \$1,000; and (3) for a third or subsequent violation within a 3-year period, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor



more than \$1,000. (NRS 201.430) **Section 4** increases the penalties for the commission of such an unlawful act: (1) for the first violation, to a gross misdemeanor and a fine of not less than \$1,300; (2) for the second violation, to a category D felony and a fine of not more than \$5,000; and (3) for a third or subsequent violation, to a category B felony and a fine of not more than \$15,000.

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

Section 1. NRS 199.230 is hereby amended to read as follows:
199.230 A person who, by persuasion, force, threat, intimidation, deception or otherwise, and with the intent to obstruct the course of justice, prevents or attempts to prevent another person from appearing before any court, or person authorized to subpoena witnesses, as a witness in any action, investigation or other official proceeding, or causes or induces another person to be absent from such a proceeding or evade the process which requires the person to appear as a witness to testify or produce a record, document or other object, shall be punished:

1. ~~[Where]~~ *If the action, investigation or other proceeding relates to a crime involving sex trafficking, pandering or prostitution, including, without limitation, a violation of any provision of NRS 201.295 to 201.440, inclusive, for a category B felony 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.*

2. *Unless a greater penalty is provided pursuant to subsection 1, if physical force or the immediate threat of physical force is used, for a category ~~[D]~~ C felony as provided in NRS 193.130.*

~~[2.—Where no physical force or immediate threat of physical force is used,]~~

3. *Unless a greater penalty is provided pursuant to subsection 1 or 2, for a gross misdemeanor.*

Sec. 2. NRS 199.305 is hereby amended to read as follows:

199.305 1. ~~[A]~~ *It is unlawful for a person ~~[who]:~~*

(a) To, by intimidating or threatening another person, ~~[prevents]~~ prevent or ~~[dissuades]~~ dissuade a victim of a crime, a person acting on behalf of the victim or a witness from:

~~[(a)]~~ *(1) Reporting a crime or possible crime to a:*

~~[(1)]~~ *(I) Judge;*

~~[(2)]~~ *(II) Peace officer;*

~~[(3)]~~ *(III) Parole or probation officer;*

~~[(4)]~~ *(IV) Prosecuting attorney;*

~~[(5)]~~ *(V) Warden or other employee at an institution of the*

Department of Corrections; or



~~[(6)]~~ (VI) Superintendent or other employee at a juvenile correctional institution;

~~[(b)]~~ (2) Commencing a criminal prosecution or a proceeding for the revocation of a parole or probation, or seeking or assisting in such a prosecution or proceeding; or

~~[(c)]~~ (3) Causing the arrest of a person in connection with a crime ; ~~;~~

~~or [who hinders]~~

(b) To hinder or ~~[delays such a]~~ delay the victim ~~[-agent]~~ of a crime, a person acting on behalf of the victim or a witness in an effort to carry out any of ~~[those]~~ the actions described in paragraph (a).

2. A person who violates this section:

(a) If the crime or possible crime involves sex trafficking, pandering or prostitution, including, without limitation, a violation of any provision of NRS 201.295 to 201.440, inclusive, 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 6 years.

(b) Unless a greater penalty is provided pursuant to paragraph (a), is guilty of a category ~~[D]~~ C felony and shall be punished as provided in NRS 193.130.

~~[(2)]~~ 3. As used in this section, "victim of a crime" means a person against whom a crime has been committed.

Sec. 3. 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. Any person who violates subsection 1 by soliciting for prostitution:

(a) A ~~[peace officer who is posing as a]~~ child; or

(b) A person ~~[who is assisting a peace officer by posing as]~~ believed to be a child,

➤ is guilty of soliciting a child for prostitution.

3. A prostitute who violates subsection 1 is guilty of a misdemeanor. A peace officer who:

(a) Detains, but does not arrest or issue a citation to a prostitute for a violation of subsection 1 shall, before releasing the prostitute, provide information regarding and opportunities for connecting with social service agencies that may provide assistance to the prostitute. The Department of Health and Human Services shall assist law enforcement agencies in providing information regarding and opportunities for connecting with such social service agencies pursuant to this paragraph.



(b) Arrests or issues a citation to a prostitute for a violation of subsection 1 shall, before the prostitute is released from custody or cited:

(1) Inform the prostitute that he or she may be eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032; and

(2) Provide the information regarding and opportunities for connecting with social service agencies described in paragraph (a).

4. Except as otherwise provided in subsection ~~4~~ 5, a customer who violates this section:

(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.

~~5. In addition to any other penalty imposed, the court shall order a person who violates subsection 4 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.~~

~~—6.1~~ A customer who violates this section by soliciting a child for prostitution:

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

(c) For a third or subsequent offense, 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 maximum term of not more than 6 years, and may be further punished by a fine of not



more than \$15,000. The court shall not grant probation to or suspend the sentence of a person punished pursuant to this paragraph.

6. In addition to any other penalty imposed, the court shall order a person who violates:

(a) Subsection 4 to pay a civil penalty of not less than \$500 per offense.

(b) Subsection 5 to pay a civil penalty of not less than \$1,000 per offense.

7. The civil penalty described in subsection 6 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 subsection 6:

(a) Is not within the present ability of the person 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 present ability of the person 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.

8. Any civil penalty collected by a district attorney or city attorney pursuant to subsection ~~5~~ 7, must be deposited in the county or city treasury, as applicable, ~~to~~ and must 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.]~~ **to fund a program to provide support to children who are victims of crime in the city or county, as applicable.**

~~8.]~~ **9. 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**



1 this subsection, discharge and dismissal under this subsection is
2 without adjudication of guilt and is not a conviction for purposes of
3 employment, civil rights or any statute or regulation or license or
4 questionnaire or for any other public or private purpose, but is a
5 conviction for the purpose of additional penalties imposed for a
6 second or subsequent conviction or the setting of bail. Discharge
7 and dismissal restores the person discharged, in the contemplation
8 of the law, to the status occupied before the proceedings. The person
9 may not be held thereafter under any law to be guilty of perjury or
10 otherwise giving a false statement by reason of failure to recite or
11 acknowledge the proceedings in response to an inquiry made of the
12 person for any purpose. Discharge and dismissal under this
13 subsection may occur only once with respect to any person. A
14 professional licensing board may consider a proceeding under this
15 subsection in determining suitability for a license or liability to
16 discipline for misconduct. Such a board is entitled for those
17 purposes to a truthful answer from the applicant or licensee
18 concerning any such proceeding with respect to the applicant or
19 licensee.

20 ~~§9.1~~ 10. Except as limited by subsection ~~§10.1~~ 11, if a person is
21 discharged and the proceedings against the person are dismissed
22 pursuant to subsection ~~§8.1~~ 9, the court shall, without a hearing,
23 order sealed all documents, papers and exhibits in that person's
24 record, minute book entries and entries on dockets, and other
25 documents relating to the case in the custody of such other agencies
26 and officers as are named in the court's order. The court shall cause
27 a copy of the order to be sent to each agency or officer named in the
28 order. Each such agency or officer shall notify the court in writing
29 of its compliance with the order.

30 ~~§10.1~~ 11. A professional licensing board is entitled, for the
31 purpose of determining suitability for a license or liability to
32 discipline for misconduct, to inspect and to copy from a record
33 sealed pursuant to this section.

34 ~~§11.1~~ 12. If, at any time before the trial of a prostitute charged
35 with a violation of subsection 1, the prosecuting attorney has reason
36 to believe that the prostitute is a victim of sex trafficking, the
37 prosecuting attorney shall dismiss the charge. As used in this
38 subsection, "sex trafficking" means a violation of subsection 2 of
39 NRS 201.300.

40 **Sec. 4.** NRS 201.430 is hereby amended to read as follows:

41 201.430 1. ~~§§~~ *Except as otherwise provided in subsection 3,*
42 *in any county, city or town where prostitution is prohibited by*
43 *local ordinance or where the licensing of a house of prostitution is*
44 *prohibited by state statute, it* is unlawful for any person ~~engaged in~~
45 ~~conduct which is unlawful pursuant to paragraph (b) of subsection 1~~



of NRS 207.030, or any owner, operator, agent or employee of a house of prostitution, or anyone acting on behalf of any such person, to advertise the unlawful conduct or any house of prostitution:

—(a) In any public theater, on the public streets of any city or town, or on any public highway; or

—(b) In any county, city or town where prostitution is prohibited by local ordinance or where the licensing of a house of prostitution is prohibited by state statute.

—2. It is unlawful for any person knowingly to prepare or print an advertisement concerning a house of prostitution not licensed for that purpose pursuant to NRS 244.345, or conduct which is unlawful pursuant to paragraph (b) of subsection 1 of NRS 207.030, in any county, city or town where prostitution is prohibited by local ordinance or where the licensing of a house of prostitution is prohibited by state statute.

—3. Inclusion in any display, handbill or publication of the address, location or telephone number of a house of prostitution or of identification of a means of transportation to such a house, or of directions telling how to obtain any such information, constitutes prima facie evidence of advertising for the purposes of this section.

—4.} to knowingly advertise:

(a) For prostitution; or

(b) In a manner that induces a person to engage in prostitution.

2. Any person ~~[, company, association or corporation]~~ violating the provisions of this section : ~~[shall be punished:]~~

(a) For the first violation ~~[within a 3 year period, by imprisonment in the county jail for not more than 6 months, or]~~ , is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not ~~[more]~~ less than ~~[\$1,000, or by both fine and imprisonment.]~~ \$1,300.

(b) For a second violation ~~[within a 3 year period, by imprisonment in the county jail for not less than 30 days nor more than 6 months,]~~ , is guilty of a category D felony and shall be punished as provided in NRS 193.130, and by a fine of not ~~[less than \$250 nor]~~ more than ~~[\$1,000.]~~ \$5,000.

(c) For a third or subsequent violation ~~[within a 3 year period,]~~ , is guilty of a category B felony and shall be punished by imprisonment in the ~~[county jail for 6 months]~~ state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not ~~[less than \$250 nor]~~ more than ~~[\$1,000.]~~ \$15,000.

3. This section does not apply to a person who is a victim of pandering or sex trafficking pursuant to NRS 201.300.



1 4. For the purposes of this section, a person shall be deemed
2 to know that the advertising was for prostitution or would induce a
3 person to engage in prostitution if, in light of all the facts and
4 surrounding circumstances which are known to the person at the
5 time, a reasonable person would believe, under those facts and
6 circumstances, that the advertising was for prostitution or would
7 induce a person to engage in prostitution.

8 5. As used in this section, “advertise” or “advertising” means
9 the commercial use of any medium, including, without limitation,
10 any brochure or business card, the Internet, radio or television, or
11 a newspaper, magazine, sign or other printed or electronic
12 communication, by any person for the purpose of bringing
13 prostitution or the inducement of prostitution to the attention of
14 the general public. As used in this subsection, “electronic
15 communication” means the communication of any written, verbal
16 or pictorial information through the use of an electronic device,
17 including, without limitation, a telephone, cellular telephone,
18 computer or any similar means of communication.

