

ASSEMBLY BILL NO. 145—ASSEMBLYWOMAN MARZOLA

FEBRUARY 13, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to prostitution.
(BDR 15-613)

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: No.

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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; increasing the penalties for a customer who unlawfully engages in prostitution or solicitation therefor; removing a duplicative provision in existing law relating to prostitution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) prohibits a customer from engaging in prostitution or solicitation for prostitution except in a licensed house of prostitution; and (2) provides that a customer who violates such a prohibition, for a first offense that involves an adult, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months and by a fine of not less than \$400 but not more than \$1,000. (NRS 201.354) **Section 1** of this bill increases the penalties for such a first offense from a misdemeanor to a gross misdemeanor, punishable by imprisonment in the county jail for not more than 364 days and by a fine of not less than \$800 but not more than \$2,000. **Sections 5 and 6** of this bill make conforming changes to reflect the fact that the change in **section 1**, which increases the penalty for such an offense from a misdemeanor to a gross misdemeanor, removes the offense from the jurisdiction of the justice courts and municipal courts.

Existing law also contains a duplicative criminal provision prohibiting a person from offering or agreeing to engage in, engaging in or aiding and abetting any act of prostitution. (NRS 207.030) **Section 4** of this bill removes this duplicative criminal provision, and **sections 2, 3 and 7** of this bill make conforming changes to remove or replace references to the duplicative criminal provision that is removed by **section 4**.



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 a customer 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 child;

(b) A peace officer who is posing as a child; or

(c) A person who is assisting in an investigation on behalf of a peace officer by posing as a child,

→ is guilty of soliciting a child for prostitution.

3. Except as otherwise provided in subsection 5, a person 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~~ or **second** offense, is guilty of a gross misdemeanor and shall be punished ~~[as provided in NRS 193.140,]~~ **by imprisonment in the county jail for not more than 364 days** and by a fine of not less than \$800 ~~[-]~~

~~—(c)] but not more than \$2,000.~~

(b) For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished ~~[as provided in NRS 193.140,]~~ **by imprisonment in the county jail for not more than 364 days** and by a fine of not less than \$1,300 ~~[-]~~ **but not more than \$2,000.**

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 ~~for 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 person 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. Any civil penalty collected by a district attorney ~~for city attorney~~ pursuant to subsection 4 must be deposited in the county ~~for 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 ~~for 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 person for any purpose. Discharge and dismissal under this~~



~~subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.~~

~~—8.— Except as limited by subsection 9, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection 7, the court shall, without a hearing, order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents 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. 2. NRS 201.430 is hereby amended to read as follows:

201.430 1. It is unlawful for any person engaged in conduct which is unlawful pursuant to ~~[paragraph (b) of subsection 1 of NRS 207.030.]~~ **NRS 201.353**, 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.]~~ **NRS 201.353**, 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. 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 by a fine of not more than \$1,000, or by both fine and imprisonment.

(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, and by a fine of not less than \$250 nor more than \$1,000.

(c) 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.

Sec. 3. NRS 201.440 is hereby amended to read as follows:

201.440 1. 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, it is unlawful for any person, company, association or corporation knowingly to allow any person engaged in conduct which is unlawful pursuant to ~~paragraph (b) of subsection 1 of NRS 207.030,~~ **NRS 201.353**, or any owner, operator, agent or employee of a house of prostitution, or anyone acting on behalf of any such person, to advertise a house of prostitution in his or her place of business.

2. Any person, company, association or corporation that violates 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 by a fine of not more than \$1,000, or by both fine and imprisonment.

(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, and by a fine of not less than \$250 nor more than \$1,000.

(c) 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.

Sec. 4. NRS 207.030 is hereby amended to read as follows:

207.030 1. It is unlawful to:

(a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;

~~(b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;~~

~~—(c)~~ Be a pimp, panderer or procurer or live in or about houses of prostitution;



~~[(d)]~~ (c) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;

~~[(e)]~~ (d) Keep a place where lost or stolen property is concealed;

~~[(f)]~~ (e) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; or

~~[(g)]~~ (f) Lodge in any building, structure or place, whether public or private:

(1) Where a notice of default and election to sell has been recorded, unless the person is the owner, tenant or entitled to the possession or control thereof;

(2) Which has been placed on a registry of vacant, abandoned or foreclosed property by a local government, unless the person is the owner, tenant or entitled to the possession or control thereof; or

(3) Without the permission of the owner or person entitled to the possession or in control thereof.

2. A person who violates a provision of subsection 1 shall be punished:

(a) For the first violation of paragraph ~~[(a), (b) or (c)]~~ (a) or (b) of subsection 1 and for each subsequent violation of the same paragraph occurring more than 3 years after the first violation, for a misdemeanor.

(b) For the second violation of paragraph ~~[(a), (b) or (c)]~~ (a) or (b) of subsection 1 within 3 years after the first violation of the same paragraph, 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.

(c) For the third or subsequent violation of paragraph ~~[(a), (b) or (c)]~~ (a) or (b) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

(d) For a violation of any provision of paragraphs ~~[(d) to (g)]~~ (c) to (f), inclusive, of subsection 1, for a misdemeanor.

3. The terms of imprisonment prescribed by subsection 2 must be imposed to run consecutively.

4. A local government may enact an ordinance which regulates the time, place or manner in which a person or group of persons may beg or solicit alms in a public place or place open to the public.

Sec. 5. NRS 4.373 is hereby amended to read as follows:

4.373 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a justice of the peace may suspend, for not more than 2 years, the sentence or a portion thereof



1 of a person convicted of a misdemeanor. If the circumstances
2 warrant, the justice of the peace may order as a condition of
3 suspension, without limitation, that the offender:

4 (a) Make restitution to the owner of any property that is lost,
5 damaged or destroyed as a result of the commission of the offense;

6 (b) Engage in a program of community service, for not more
7 than 200 hours;

8 (c) Actively participate in a program of professional counseling
9 at the expense of the offender;

10 (d) Abstain from the use of alcohol and controlled substances;

11 (e) Refrain from engaging in any criminal activity;

12 (f) Engage or refrain from engaging in any other conduct, or
13 comply with any other condition, deemed appropriate by the justice
14 of the peace;

15 (g) Submit to a search and seizure by the chief of a department
16 of alternative sentencing, an assistant alternative sentencing officer
17 or any other law enforcement officer at any time of the day or night
18 without a search warrant; and

19 (h) Submit to periodic tests to determine whether the offender is
20 using a controlled substance or consuming alcohol.

21 2. If a person is convicted of a misdemeanor that constitutes
22 domestic violence pursuant to NRS 33.018, the justice of the peace
23 may, after the person has served any mandatory minimum period of
24 confinement, suspend the remainder of the sentence of the person
25 for not more than 3 years upon the condition that the person actively
26 participate in:

27 (a) A program of treatment for alcohol or drug use disorder, or
28 both, which is certified by the Division of Public and Behavioral
29 Health of the Department of Health and Human Services;

30 (b) A program for the treatment of persons who commit
31 domestic violence that has been certified pursuant to NRS 439.258;
32 or

33 (c) The programs set forth in paragraphs (a) and (b),

34 ➔ and that the person comply with any other condition of
35 suspension ordered by the justice of the peace.

36 3. ~~[Except as otherwise provided in this subsection, if a~~
37 ~~customer of a prostitute is convicted of a misdemeanor that~~
38 ~~constitutes solicitation for prostitution pursuant to NRS 201.354 or~~
39 ~~paragraph (b) of subsection 1 of NRS 207.030, the justice of the~~
40 ~~peace may suspend the sentence for not more than 2 years upon the~~
41 ~~condition that the person:~~

42 ~~—(a) Actively participate in a program for the treatment of persons~~
43 ~~who solicit prostitution which is certified by the Division of Public~~
44 ~~and Behavioral Health of the Department of Health and Human~~
45 ~~Services; and~~



~~—(b) Comply with any other condition of suspension ordered by the justice of the peace.~~

~~→ The justice of the peace may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.~~

~~—4.]~~ The justice of the peace may order reports from a person whose sentence is suspended at such times as the justice of the peace deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the justice of the peace, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

~~[5.]~~ 4. The justice of the peace may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

Sec. 6. NRS 5.055 is hereby amended to read as follows:

5.055 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence or a portion thereof of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension, without limitation, that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct, or comply with any other condition, deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the municipal judge may, after the person has served any mandatory minimum period of



1 confinement, suspend the remainder of the sentence of the person
2 for not more than 3 years upon the condition that the person actively
3 participate in:

4 (a) A program of treatment for alcohol or drug use disorder, or
5 both, which is certified by the Division of Public and Behavioral
6 Health of the Department of Health and Human Services;

7 (b) A program for the treatment of persons who commit
8 domestic violence that has been certified pursuant to NRS 439.258;
9 or

10 (c) The programs set forth in paragraphs (a) and (b),
11 ➤ and that the person comply with any other condition of
12 suspension ordered by the municipal judge.

13 3. ~~[Except as otherwise provided in this subsection, if a~~
14 ~~customer of a prostitute is convicted of a misdemeanor that~~
15 ~~constitutes solicitation for prostitution pursuant to NRS 201.354 or~~
16 ~~paragraph (b) of subsection 1 of NRS 207.030, the municipal judge~~
17 ~~may suspend the sentence for not more than 2 years upon the~~
18 ~~condition that the person:~~

19 —(a) Actively participate in a program for the treatment of persons
20 who solicit prostitution which is certified by the Division of Public
21 and Behavioral Health of the Department of Health and Human
22 Services; and

23 —(b) Comply with any other condition of suspension ordered by
24 the municipal judge.

25 ➤ ~~The municipal judge may not suspend the sentence of a person~~
26 ~~pursuant to this subsection if the person has previously participated~~
27 ~~in a program for the treatment of persons who solicit prostitution~~
28 ~~which is certified by the Division of Public and Behavioral Health~~
29 ~~of the Department of Health and Human Services.~~

30 —4.] The municipal judge may order reports from a person
31 whose sentence is suspended at such times as the municipal judge
32 deems appropriate concerning the compliance of the offender with
33 the conditions of suspension. If the offender complies with the
34 conditions of suspension to the satisfaction of the municipal judge,
35 the sentence may be reduced to not less than the minimum period of
36 confinement established for the offense.

37 ~~[5.]~~ 4. The municipal judge may issue a warrant for the arrest
38 of an offender who violates or fails to fulfill a condition of
39 suspension.

40 **Sec. 7.** NRS 62C.015 is hereby amended to read as follows:

41 62C.015 1. A child must not be adjudicated as delinquent or
42 in need of supervision for engaging in prostitution or solicitation for
43 prostitution pursuant to NRS 201.353 or 201.354. ~~for paragraph (b)~~
44 ~~of subsection 1 of NRS 207.030.]~~



2. A child must not be placed in a state or local facility for the detention of children if:

(a) The child is alleged to have violated:

(1) The provisions of NRS 197.190, 207.200 or 463.350; or

(2) A county or municipal ordinance imposing a curfew on a child or prohibiting jaywalking or loitering for the purpose of solicitation for prostitution; and

(b) There is reasonable cause to believe that the child is a commercially sexually exploited child.

3. If a court finds that a child committed an act described in subsection 2 and that clear and convincing evidence exists that the child committed the act in connection with commercial sexual exploitation, the court shall not adjudicate the child as a delinquent child or a child in need of supervision based on that act. Upon such a finding, the court shall report the commercial sexual exploitation of the child to an agency which provides child welfare services.

4. A juvenile justice agency that has reasonable cause to believe that a child in its custody is or has been a commercially sexually exploited child shall report the commercial sexual exploitation of the child to an agency which provides child welfare services.

5. As used in this section:

(a) “Commercial sexual exploitation” means the sex trafficking of a child in violation of NRS 201.300 or the sexual abuse or sexual exploitation of a child for the financial benefit of any person or in exchange for anything of value, including, without limitation, monetary or nonmonetary benefits given or received by any person.

(b) “Commercially sexually exploited child” has the meaning ascribed to it in NRS 424.0115.

(c) “Juvenile justice agency” means the Youth Parole Bureau or a director of juvenile services.

Sec. 8. This act becomes effective on July 1, 2023.

