

SENATE BILL NO. 89—SENATORS SEEVERS GANSERT AND
CANNIZZARO

PREFILED JANUARY 30, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing crimes relating to sex trafficking. (BDR 15-107)

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 provisions governing crimes relating to sex trafficking; revising certain requirements for compensation from the Fund for the Compensation of Victims of Crime; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person commits the crime of sex trafficking when the person commits certain specified acts against another person for the purpose of sexual conduct or prostitution or for certain other reasons, including, without limitation, if a person 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. The penalties for the crime of sex trafficking vary based upon whether the victim is an adult or a child and, if the victim is a child, based upon the age of the child at the time the crime is committed. (NRS 201.300) Existing law also provides that a person commits the crime of facilitating sex trafficking if the person: (1) facilitates, arranges, provides or pays for the transportation of a person to or within this State with the intent of inducing that person to engage in unlawful sexual conduct or prostitution or, if that person is a child, certain acts relating to pornography involving minors; (2) 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 engaging in sexual conduct with a victim of sex trafficking, soliciting a child who is a victim of sex trafficking or engaging in certain acts relating to pornography involving minors; or (3) travels to or within this State by any means with the intent of engaging in sexual conduct with a victim of sex trafficking with the knowledge that the victim has been induced to engage in sexual conduct or prostitution or engaging in certain acts relating to pornography involving minors. A person who commits the crime of facilitating sex trafficking is guilty of a category B felony and is subject to certain



minimum and maximum terms of imprisonment depending on whether the victim is an adult or a child. (NRS 201.301)

Sections 1, 2 and 4 of this bill provide that a person who commits the crime of sex trafficking is subject to the same penalties that apply under existing law for committing the crime against a child if the person commits the crime against a peace officer who is posing as a child or a person who is assisting in an investigation on behalf of a peace officer by posing as a child. **Sections 1, 3 and 4** of this bill provide that a person who commits the crime of facilitating sex trafficking is subject to the same penalties that apply under existing law for committing the crime against a child if the person commits the crime against a peace officer who is posing as a child or a person who is assisting in an investigation on behalf of a peace officer by posing as a child.

Sections 5 and 7 of this bill make conforming changes to provisions of existing law that contain references to the crimes of sex trafficking a child and facilitating sex trafficking of a child to reflect the changes made in **sections 1-4**.

Existing law requires the payment of compensation from the Fund for the Compensation of Victims of Crime to certain victims of criminal acts and requires an application for such compensation from the Fund to be filed not later than 24 months after the injury or death for which compensation is claimed. (NRS 217.100, 217.180) **Section 6** of this bill creates an exception to this time limit by authorizing a person who is a victim of sex trafficking or facilitating sex trafficking to file an application for compensation from the Fund not later than 48 months after the injury or death for which compensation is claimed.

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

Section 1. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. *"Adult posing as a child" means an adult who is:*

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

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

3. "Child" means a person less than 18 years of age.

~~[3.]~~ 4. "Induce" means to persuade, encourage, inveigle or entice.

~~[4.]~~ 5. *"Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.*

6. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.



~~15.1~~ 7. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

~~16.1~~ 8. "Sexual conduct" means any of the acts enumerated in subsection ~~14.~~

~~7.1~~ 6.

9. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 2. 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.

2. A person:

(a) Is guilty of sex trafficking if the person:

(1) Induces, causes, recruits, harbors, transports, provides, obtains or maintains a child *or an adult posing as 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;

(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; or

(5) Receives anything of value with the specific intent of facilitating a violation of this paragraph.

(b) Who is found guilty of sex trafficking:



(1) An adult, *except as otherwise provided in subparagraph (3)*, 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) *An adult posing as a child:*

(I) *If the adult posing as a child is posing as a child who 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 adult posing as a child is posing as a child who 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 adult posing as a child is posing as a child who 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 *or an adult posing as 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 *or an adult posing as 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. 3. 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 ~~§~~ *or, if the person is an adult posing as a child, using the person for any act that would be prohibited by NRS 200.710 or 200.720 if the person actually were a child;*

(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 *or an adult posing as 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 ~~§~~ *or, if the person is an adult posing*



1 *as a child, engaging in any act that would be prohibited by NRS*
2 *200.710 or 200.720 if the person actually were a child; or*

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

5 (1) Sexual conduct with a person who has been induced to
6 engage in sexual conduct or prostitution in violation of
7 subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS
8 201.300, with the knowledge that such a person has been induced to
9 engage in such sexual conduct or prostitution; or

10 (2) Any act involving a child that is prohibited by NRS
11 200.710 or 200.720 ~~or, if the person is an adult posing as a~~
12 *child, any act that would be prohibited by NRS 200.710 or 200.720*
13 *if the person actually were a child.*

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

16 (a) ~~Except as otherwise provided in paragraph (b), if the~~
17 victim is ~~[18 years of age or older,]~~ *an adult*, shall be punished by
18 imprisonment in the state prison for a minimum term of not less
19 than 1 year and a maximum term of not more than 6 years.

20 (b) If the victim is ~~[less than 18 years of age,]~~ *a child or an*
21 *adult posing as a child*, shall be punished by imprisonment in the
22 state prison for a minimum term of not less than 3 years and a
23 maximum term of not more than 10 years.

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

25 201.352 1. If a person is convicted of a violation of
26 subsection 2 of NRS 201.300, subsection 1 of NRS 201.301, NRS
27 201.320 or 201.395, the victim of the violation is a child *or an adult*
28 *posing as a child* when the offense is committed and physical force
29 or violence or the immediate threat of physical force or violence is
30 used upon the child ~~or adult posing as a child~~, the court may, in
31 addition to the term of imprisonment prescribed by statute for the
32 offense and any fine imposed pursuant to subsection 2, impose a
33 fine of not more than \$500,000.

34 2. If a person is convicted of a violation of subsection 2 of
35 NRS 201.300, subsection 1 of NRS 201.301, NRS 201.320 or
36 201.395, the victim of the offense is a child *or an adult posing as a*
37 *child* when the offense is committed and the offense also involves a
38 conspiracy to commit a violation of subsection 2 of NRS 201.300,
39 subsection 1 of NRS 201.301, NRS 201.320 or 201.395, the court
40 may, in addition to the punishment prescribed by statute for the
41 offense of a provision of subsection 2 of NRS 201.300, subsection 1
42 of NRS 201.301, NRS 201.320 or 201.395 and any fine imposed
43 pursuant to subsection 1, impose a fine of not more than \$500,000.

44 3. The provisions of subsections 1 and 2 do not create a
45 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 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; *or*

(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]~~ *An adult* 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 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 person who ~~[violates this section]~~ *is guilty of soliciting a child for prostitution pursuant to subsection 2* by soliciting *for prostitution* a child ~~[for prostitution:]~~ *or an adult posing as a child:*

(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 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 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. 6. NRS 217.100 is hereby amended to read as follows:

217.100 1. Except as otherwise provided in subsection 5, any person eligible for compensation under the provisions of NRS 217.010 to 217.270, inclusive, may apply to the Director for such compensation not later than 24 months after the injury or death for which compensation is claimed ~~or~~ *or, for a person who is a victim of sex trafficking or facilitating sex trafficking, not later than 48 months after the injury or death for which compensation is claimed*, unless waived by the Director or a person designated by the Director for good cause shown, and the personal injury or death was the result of an incident or offense that was reported to the police within 5 days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within 5 days of the time when a report could reasonably have been made.

2. An order for the payment of compensation must not be made unless the application is made within the time set forth in subsection 1.

3. Where the person entitled to make application is:

(a) A minor, the application may be made on his or her behalf by a parent or guardian.

(b) Mentally incapacitated, the application may be made on his or her behalf by a parent, guardian or other person authorized to administer his or her estate.

4. The applicant must submit with his or her application the reports, if reasonably available, from all physicians who, at the time of or subsequent to the victim's injury or death, treated or examined



1 the victim in relation to the injury for which compensation is
2 claimed.

3 5. The limitations upon payment of compensation established
4 in subsection 1 do not apply to a minor who is sexually abused or
5 who is involved in the production of pornography. Such a minor
6 must apply for compensation before reaching 21 years of age.

7 **6. As used in this section:**

8 (a) *“Facilitating sex trafficking” means a violation of*
9 *NRS 201.301.*

10 (b) *“Sex trafficking” means a violation of subsection 2 of*
11 *NRS 201.300.*

12 **Sec. 7.** NRS 432C.150 is hereby amended to read as follows:

13 432C.150 1. Information maintained by an agency which
14 provides child welfare services must be maintained by the agency
15 which provides child welfare services as required by federal law as a
16 condition of the allocation of federal money to this State.

17 2. Except as otherwise provided in this section, information
18 maintained by an agency which provides child welfare services
19 may, at the discretion of the agency which provides child welfare
20 services, be made available only to:

21 (a) A physician, if the physician has before him or her a child
22 who the physician has reasonable cause to believe is a commercially
23 sexually exploited child;

24 (b) A person authorized to place a child in protective custody, if
25 the person has before him or her a child who the person has
26 reasonable cause to believe is a commercially sexually exploited
27 child and the person requires the information to determine whether
28 to place the child in protective custody;

29 (c) An agency, including, without limitation, an agency in
30 another jurisdiction, responsible for or authorized to undertake the
31 care, treatment or supervision of:

32 (1) The child; or

33 (2) The person responsible for the welfare of the child;

34 (d) A district attorney or other law enforcement officer who
35 requires the information in connection with an investigation or
36 prosecution of the commercial sexual exploitation of a child;

37 (e) A court other than a juvenile court, for in camera inspection
38 only, unless the court determines that public disclosure of the
39 information is necessary for the determination of an issue before it;

40 (f) A person engaged in bona fide research or an audit, but
41 information identifying the subjects of a report must not be made
42 available to the person;

43 (g) The attorney and the guardian ad litem of the child, if the
44 information is reasonably necessary to promote the safety,
45 permanency and well-being of the child;



(h) Except as otherwise provided in subsection 4, a federal, state or local governmental entity, or an agency of such an entity, or a juvenile court, that needs access to the information to carry out its legal responsibilities to protect children from commercial sexual exploitation;

(i) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(j) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the commercial sexual exploitation of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;

(k) The persons or agent of the persons who are the subject of a report, if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons; or

(l) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency.

3. Before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports that a child is a commercially sexually exploited child and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged commercial sexual exploitation of a child or the life or safety of any person.

4. An agency which provides child welfare services shall not provide information maintained by the agency which provides child welfare services to a juvenile court only to facilitate a determination by the court related to the adjudication of a child who is accused of:

(a) Sex trafficking a child *or an adult posing as a child, as defined in NRS 201.295*, in violation of NRS 201.300; or

(b) Facilitating sex trafficking of a child *or an adult posing as a child, as defined in NRS 201.295*, in violation of NRS 201.301.

5. The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare



1 services if, after consultation with the attorney who represents the
2 agency, the agency determines that such disclosure would cause a
3 specific and material harm to a criminal investigation.

4 6. If an agency which provides child welfare services receives
5 any information that is deemed confidential by law, the agency
6 which provides child welfare services shall maintain the
7 confidentiality of the information as prescribed by applicable law.

8 7. Pursuant to this section, a person may authorize the release
9 of information maintained by an agency which provides child
10 welfare services about himself or herself, but may not waive the
11 confidentiality of such information concerning any other person.

12 8. Except as otherwise provided in this subsection, any person
13 who is provided with information maintained by an agency which
14 provides child welfare services and who further disseminates the
15 information or makes the information public is guilty of a gross
16 misdemeanor. This subsection does not apply to a district attorney
17 or other law enforcement officer who uses the information solely for
18 the purpose of initiating legal proceedings against any person
19 alleged to be the perpetrator of the commercial sexual exploitation
20 of a child.

21 9. An agency which provides child welfare services may
22 charge a fee for processing costs reasonably necessary to prepare
23 information maintained by the agency which provides child welfare
24 services for release pursuant to this section.

25 10. An agency which provides child welfare services shall
26 adopt rules, policies or regulations to carry out the provisions of this
27 section.

28 11. As used in this section, “parent” has the meaning ascribed
29 to it in NRS 432B.080.

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

