

SENATE BILL NO. 164—SENATORS SCHEIBLE,  
D. HARRIS AND OHRENSCHALL

MARCH 2, 2021

JOINT SPONSORS: ASSEMBLYMEN NGUYEN; GONZÁLEZ AND WATTS

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to victims of human trafficking. (BDR 15-57)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to crimes; providing that victims of human trafficking are immune from civil and criminal liability for the commission of certain offenses; prohibiting a law enforcement officer from arresting or issuing a citation to a victim of human trafficking for certain offenses relating to prostitution; requiring the release from custody of or dismissal of charges against a person who is determined to be a victim of human trafficking in certain circumstances; requiring that victims of human trafficking be referred to certain local resources, programs and services; requiring that certain state agencies be notified of certain victims of human trafficking; revising provisions governing the requirement for persons who are arrested for certain crimes to submit to a test to detect exposure to the human immunodeficiency virus; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law prohibits pandering, sex trafficking, living from the earnings of a  
2 prostitute and advancing prostitution. (NRS 201.300, 201.320, 201.395) **Section 1**  
3 of this bill defines a victim of those crimes as a “victim of human trafficking.”

4 **Section 1** provides that any person who is determined by a law enforcement  
5 officer, prosecuting attorney or court to be a victim of human trafficking is immune  
6 from any civil or criminal liability for: (1) unlawfully engaging in prostitution or



7 solicitation for prostitution; (2) unlawfully offering or agreeing to engage in or  
8 aiding and abetting any act of prostitution; or (3) any other crime that the person  
9 committed in his or her capacity as a victim of human trafficking. **Section 1** also  
10 prohibits a law enforcement officer from arresting or issuing a citation to a person  
11 who has or is alleged to have unlawfully engaged in prostitution or solicitation for  
12 prostitution or offered or agreed to engage in or aided and abetted any act of  
13 prostitution if it reasonably appears to the law enforcement officer that the person is  
14 a victim of human trafficking.

15 **Section 1** additionally provides that if a person is arrested for or charged with  
16 engaging in prostitution or solicitation for prostitution or offering or agreeing to  
17 engage in or aiding and abetting any act of prostitution, and the person is  
18 subsequently determined by a law enforcement officer, prosecuting attorney or  
19 court to be a victim of human trafficking, the charges against the person must be  
20 dismissed and, unless the person has been charged with another offense, he or she  
21 must be released from custody. **Section 1** further provides that if a person is  
22 arrested for or charged with the commission of any crime other than such offenses  
23 relating to prostitution and is subsequently determined by a law enforcement  
24 officer, prosecuting attorney or court to be a victim of human trafficking and to  
25 have committed the crime in his or her capacity as such a victim, the charges  
26 against the person must be dismissed and the person must be released from custody.  
27 Finally, **section 1** requires law enforcement officers, prosecuting attorneys and  
28 courts to: (1) refer victims of human trafficking to available local resources,  
29 programs or services for victims of human trafficking; (2) notify the Division of  
30 Child and Family Services of the Department of Health and Human Services if a  
31 victim of human trafficking is less than 18 years of age; and (3) notify the Aging  
32 and Disability Services Division of the Department of Health and Human Services  
33 if a victim of human trafficking is an older person or a vulnerable person.

34 **Section 2** of this bill makes a conforming change to indicate the placement of  
35 **section 1** in the Nevada Revised Statutes. **Sections 3 and 5** of this bill make  
36 conforming changes to indicate that the provisions of **section 1** constitute an  
37 exception to the provisions of law that prohibit offenses relating to prostitution.  
38 **Sections 3 and 6** of this bill remove provisions of existing law that are no longer  
39 necessary because of the provisions of **section 1**.

40 Existing law requires any person who is arrested for unlawfully engaging in  
41 prostitution or solicitation for prostitution to submit to a test to detect exposure to  
42 the human immunodeficiency virus. (NRS 201.356) **Section 4** of this bill provides  
43 that such a person is exempt from that requirement if the person is determined to be  
44 a victim of human trafficking after his or her arrest but before the test is performed.

45 **Section 7** of this bill provides that the amendatory provisions of this bill apply  
46 to an offense committed: (1) on or after October 1, 2021; and (2) before October 1,  
47 2021, if the person is not convicted before October 1, 2021.

---

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

1 **Section 1.** Chapter 201 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 **1. Notwithstanding any other provision of law, any person**  
4 **who:**

5 **(a) Is determined by a law enforcement officer to be a victim of**  
6 **human trafficking as a result of a person:**



1           (1) Reporting to a law enforcement agency that he, she or  
2 another person is a victim of human trafficking or abuse; or

3           (2) Seeking or receiving health care services, including,  
4 without limitation, as a result of being a victim of human  
5 trafficking or abuse; or

6           (b) Is otherwise determined by a law enforcement officer,  
7 prosecuting attorney or court to be a victim of human trafficking,  
8       ↳ is immune from any civil or criminal liability resulting from a  
9 violation of NRS 201.354, paragraph (b) of subsection 1 of NRS  
10 207.030 or any other crime that the person committed in his or her  
11 capacity as a victim of human trafficking.

12       2. If a law enforcement officer detains a person who has  
13 committed or is alleged to have committed a violation of NRS  
14 201.354 or paragraph (b) of subsection 1 of NRS 207.030 and it  
15 reasonably appears to the law enforcement officer that the person  
16 is a victim of human trafficking, the law enforcement officer shall  
17 not arrest or issue a citation to the person for a violation of NRS  
18 201.354 or paragraph (b) of subsection 1 of NRS 207.030.

19       3. If a person is arrested for or charged with a violation of:

20           (a) NRS 201.354 or paragraph (b) of subsection 1 of NRS  
21 207.030 and it is subsequently determined by a law enforcement  
22 officer, prosecuting attorney or court that the person is a victim of  
23 human trafficking, the charges against the person must be  
24 dismissed and, unless the person is also subject to the provisions of  
25 paragraph (b) and all required determinations have not yet been  
26 made pursuant to that paragraph, the person must be released  
27 from custody.

28           (b) Any crime other than a violation of NRS 201.354 or  
29 paragraph (b) of subsection 1 of NRS 207.030 and it is  
30 subsequently determined by a law enforcement officer,  
31 prosecuting attorney or court that the person is a victim of human  
32 trafficking and committed the crime in his or her capacity as a  
33 victim of human trafficking, the charges against the person must  
34 be dismissed and the person must be released from custody.

35       4. Upon making a determination that a person is a victim of  
36 human trafficking pursuant to subsection 1, releasing a person  
37 from detention pursuant to subsection 2 or dismissing charges  
38 against a person and releasing the person from custody pursuant  
39 to subsection 3, the law enforcement officer, prosecuting attorney  
40 or court, as applicable, shall:

41           (a) Refer the person to available local resources, programs or  
42 services for victims of human trafficking;

43           (b) If the person is less than 18 years of age, notify the  
44 Division of Child and Family Services of the Department of  
45 Health and Human Services; and



1 (c) *If the person is an older person or a vulnerable person,*  
2 *notify the Aging and Disability Services Division of the*  
3 *Department of Health and Human Services. For the purposes of*  
4 *this paragraph:*

5 (1) *“Older person” has the meaning ascribed to it in*  
6 *NRS 200.5092.*

7 (2) *“Vulnerable person” has the meaning ascribed to it in*  
8 *NRS 200.5092.*

9 5. *As used in this section, “victim of human trafficking”*  
10 *means a person who is a victim of:*

11 (a) *Pandering or sex trafficking in violation of NRS 201.300;*  
12 *or*

13 (b) *A violation of NRS 201.320 or 201.395.*

14 **Sec. 2.** NRS 201.295 is hereby amended to read as follows:

15 201.295 As used in NRS 201.295 to 201.440, inclusive, *and*  
16 *section 1 of this act*, unless the context otherwise requires:

17 1. “Adult” means a person 18 years of age or older.

18 2. “Child” means a person less than 18 years of age.

19 3. “Induce” means to persuade, encourage, inveigle or entice.

20 4. “Prostitute” means a male or female person who for a fee,  
21 monetary consideration or other thing of value engages in sexual  
22 intercourse, oral-genital contact or any touching of the sexual organs  
23 or other intimate parts of a person for the purpose of arousing or  
24 gratifying the sexual desire of either person.

25 5. “Prostitution” means engaging in sexual conduct with  
26 another person in return for a fee, monetary consideration or other  
27 thing of value.

28 6. “Sexual conduct” means any of the acts enumerated in  
29 subsection 4.

30 7. “Transports” means to transport or cause to be transported,  
31 by any means of conveyance, into, through or across this State, or to  
32 aid or assist in obtaining such transportation.

33 **Sec. 3.** NRS 201.354 is hereby amended to read as follows:

34 201.354 *Except as otherwise provided in subsection 1 of*  
35 *section 1 of this act:*

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

38 2. Any person who violates subsection 1 by soliciting for  
39 prostitution:

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

41 (b) A person who is assisting a peace officer by posing as a  
42 child,

43 ↪ is guilty of soliciting a child for prostitution.



1 3. A prostitute who violates subsection 1 is guilty of a  
2 misdemeanor. ~~[A]~~ *Except as otherwise provided in subsection 4 of*  
3 *section 1 of this act, a peace officer who:*

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

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

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

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

20 4. Except as otherwise provided in subsection 6, a customer  
21 who violates this section:

22 (a) For a first offense, is guilty of a misdemeanor and shall be  
23 punished as provided in NRS 193.150, and by a fine of not less than  
24 \$400.

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

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

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

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

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



1 6. A customer who violates this section by soliciting a child for  
2 prostitution:

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

6 (b) For a second offense, is guilty of a category C felony and  
7 shall be punished as provided in NRS 193.130.

8 (c) For a third or subsequent offense, is guilty of a category B  
9 felony and shall be punished by imprisonment in the state prison for  
10 a minimum term of not less than 1 year and maximum term of not  
11 more than 6 years, and may be further punished by a fine of not  
12 more than \$15,000. The court shall not grant probation to or suspend  
13 the sentence of a person punished pursuant to this paragraph.

14 7. Any civil penalty collected by a district attorney or city  
15 attorney pursuant to subsection 5 must be deposited in the county or  
16 city treasury, as applicable, to be used for:

17 (a) The enforcement of this section; and

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

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

24 8. If a person who violates subsection 1 is ordered pursuant to  
25 NRS 4.373 or 5.055 to participate in a program for the treatment of  
26 persons who solicit prostitution, upon fulfillment of the terms and  
27 conditions of the program, the court may discharge the person and  
28 dismiss the proceedings against the person. If the court discharges  
29 the person and dismisses the proceedings against the person, a  
30 nonpublic record of the discharge and dismissal must be transmitted  
31 to and retained by the Division of Parole and Probation of the  
32 Department of Public Safety solely for the use of the courts in  
33 determining whether, in later proceedings, the person qualifies  
34 under this section for participation in a program of treatment for  
35 persons who solicit prostitution. Except as otherwise provided in  
36 this subsection, discharge and dismissal under this subsection is  
37 without adjudication of guilt and is not a conviction for purposes of  
38 employment, civil rights or any statute or regulation or license or  
39 questionnaire or for any other public or private purpose, but is a  
40 conviction for the purpose of additional penalties imposed for a  
41 second or subsequent conviction or the setting of bail. Discharge  
42 and dismissal restores the person discharged, in the contemplation  
43 of the law, to the status occupied before the proceedings. The person  
44 may not be held thereafter under any law to be guilty of perjury or  
45 otherwise giving a false statement by reason of failure to recite or



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

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

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

24 ~~{11. If, at any time before the trial of a prostitute charged with~~  
25 ~~a violation of subsection 1, the prosecuting attorney has reason to~~  
26 ~~believe that the prostitute is a victim of sex trafficking, the~~  
27 ~~prosecuting attorney shall dismiss the charge. As used in this~~  
28 ~~subsection, "sex trafficking" means a violation of subsection 2 of~~  
29 ~~NRS 201.300.}~~

30 **Sec. 4.** NRS 201.356 is hereby amended to read as follows:

31 201.356 1. ~~{Any}~~ *Except as otherwise provided in*  
32 *subsection 6, any* person who is arrested for a violation of NRS  
33 201.354 must submit to a test, approved by regulation of the State  
34 Board of Health, to detect exposure to the human immunodeficiency  
35 virus. The State Board of Health shall not approve a test for use that  
36 does not provide the arresting law enforcement agency with the  
37 results of the test within 30 days after a person submits to the test. If  
38 the person is convicted of a violation of NRS 201.354, the person  
39 shall pay the sum of \$100 for the cost of the test.

40 2. The person performing the test shall immediately transmit  
41 the results of the test to the arresting law enforcement agency. If the  
42 results of the test are negative, the agency shall inform the court of  
43 that fact. If the results of the test are positive, the agency shall upon  
44 receipt:



1 (a) Mail the results by certified mail, return receipt requested, to  
2 the person arrested at his or her last known address and place the  
3 returned receipt in the agency's file; or

4 (b) If the person arrested is in the custody of the agency,  
5 personally deliver the results to him or her and place an affidavit of  
6 service in the agency's file.

7 ↪ If before receiving the results pursuant to this subsection, the  
8 person arrested requests the agency to inform him or her of the  
9 results and the agency has received those results, the agency shall  
10 deliver the results to the person arrested, whether positive or  
11 negative, and place an affidavit of service in the agency's file.

12 3. The court shall, when the person arrested is arraigned, order  
13 the person to reappear before the court 45 days after the arraignment  
14 to determine whether the person has received the results of the test.  
15 The court shall inform the person that the failure to appear at the  
16 appointed time will result in the issuance of a bench warrant, unless  
17 the order is rescinded pursuant to this subsection. If the court is  
18 informed by the agency that the results of the person's test were  
19 negative, the court clerk shall rescind the order for reappearance and  
20 so notify the person. If, upon receiving notice from the agency that  
21 the results of the test were positive, the person notifies the court  
22 clerk in writing that he or she has received the results, the clerk shall  
23 inform the court and rescind the order for reappearance for that  
24 determination.

25 4. The court shall, upon the person's reappearance ordered  
26 pursuant to subsection 3, ask the person whether he or she has  
27 received the results of the test. If the person answers that he or she  
28 has received them, the court shall note the person's answer in the  
29 court records. If the person answers that he or she has not received  
30 them, the court shall have the results delivered to the person and  
31 direct that an affidavit of service be placed in the agency's file.

32 5. If the person does not reappear as ordered and has not  
33 notified the court clerk of his or her receipt of the results of the test  
34 in the manner set forth in subsection 3, the court shall cause a bench  
35 warrant to be issued and that person arrested and brought before the  
36 court as upon contempt. The court shall also proceed in the manner  
37 set forth in subsection 4 to ensure that the person receives the results  
38 of the test.

39 ***6. If a person is arrested for a violation of NRS 201.354 but is***  
40 ***subsequently determined to be a victim of human trafficking in***  
41 ***accordance with section 1 of this act before a test is performed***  
42 ***pursuant to this section, the person is exempt from the provisions***  
43 ***of this section. As used in this subsection, "victim of human***  
44 ***trafficking" has the meaning ascribed to it in section 1 of this act.***





1       **Sec. 5.** NRS 207.030 is hereby amended to read as follows:

2       207.030 1. It is unlawful to:

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

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

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

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

13       (e) Keep a place where lost or stolen property is concealed;

14       (f) Loiter in or about any toilet open to the public for the  
15 purpose of engaging in or soliciting any lewd or lascivious or any  
16 unlawful act; or

17       (g) Lodge in any building, structure or place, whether public or  
18 private:

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

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

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

28       2. ~~1A~~ *Except as otherwise provided in subsection 1 of section*  
29 *1 of this act*, a person who violates a provision of subsection 1 shall  
30 be punished:

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

35       (b) For the second violation of paragraph (a), (b) or (c) of  
36 subsection 1 within 3 years after the first violation of the same  
37 paragraph, by imprisonment in the county jail for not less than 30  
38 days nor more than 6 months and by a fine of not less than \$250 nor  
39 more than \$1,000.

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

44       (d) For a violation of any provision of paragraphs (d) to (g),  
45 inclusive, of subsection 1, for a misdemeanor.



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

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

6 **Sec. 6.** NRS 62C.015 is hereby amended to read as follows:

7 62C.015 1. A child must not be adjudicated as delinquent or  
8 in need of supervision for engaging in prostitution or solicitation for  
9 prostitution pursuant to NRS 201.354 or paragraph (b) of subsection  
10 1 of NRS 207.030.

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

13 (a) The child is alleged to have violated:

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

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

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

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

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

32 5. As used in this section:

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

38 (b) "Commercially sexually exploited child" ~~has the meaning~~  
39 ~~ascribed to it in NRS 424.0195.~~ *means any child who is a victim of*  
40 *sexual abuse or sexually exploited for the financial benefit of any*  
41 *person or in exchange for anything of value, including, without*  
42 *limitation, monetary or nonmonetary benefits given or received by*  
43 *any person.*

44 (c) "Juvenile justice agency" means the Youth Parole Bureau or  
45 a director of juvenile services.



1     **Sec. 7.** The amendatory provisions of this act apply to an  
2 offense committed:

3         1. On or after October 1, 2021; and

4         2. Before October 1, 2021, if the person is not convicted before  
5 October 1, 2021.

③

