

ASSEMBLY BILL NO. 380—ASSEMBLYMEN HAMBRICK, ANDERSON;
CARPENTER, DONDERO LOOP, HORNE, MANENDO,
OHRENSCHALL AND PARNELL

MARCH 16, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the sexual exploitation of children. (BDR 15-727)

FISCAL NOTE: Effect on Local Government: No.
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; providing for the freezing and forfeiture of the assets of a person who commits certain offenses involving the pandering or prostitution of a child; imposing a civil penalty against a person convicted of certain offenses involving the pandering or prostitution of a child; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes several crimes relating to pandering or prostitution,
2 including: (1) pandering by inducing a person to become a prostitute through
3 threats or other actions; (2) pandering by placing a spouse in a house of prostitution
4 through force, fraud, intimidation or threats; (3) living from the earnings of a
5 prostitute; (4) pandering by detaining a person in a house of prostitution because of
6 any debt; and (5) pandering by furnishing transportation to induce a person to
7 become a prostitute or engage in prostitution. (NRS 201.300-201.340)

8 **Section 2** of this bill provides that: (1) the assets of a person who commits an
9 offense involving the pandering or prostitution of a child are subject to forfeiture;
10 and (2) a temporary restraining order may be entered by the court to freeze the
11 assets of such a person.

12 **Section 3** of this bill imposes a civil penalty, in addition to any criminal
13 penalty, on a person who is convicted of an offense involving pandering or
14 prostitution of a child.

15 **Section 4** of this bill, which is patterned after similar provisions in the Nevada
16 Revised Statutes that establish restrictions on the use of plea bargaining for certain
17 crimes, provides that if a person is charged with committing an offense involving
18 pandering or prostitution of a child, the prosecuting attorney is prohibited from
19 dismissing the charge in exchange for a plea, unless the prosecutor knows or it is



20 obvious that the charge is not supported by probable cause or cannot be proved at
21 the time of trial.

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 the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. 1.** *All assets derived from or relating to any*
4 *violation of NRS 201.300 to 201.340, inclusive, in which the victim*
5 *of the offense is a child when the offense is committed are subject*
6 *to forfeiture pursuant to NRS 179.121 and a proceeding for their*
7 *forfeiture may be brought pursuant to NRS 179.1156 to 179.121,*
8 *inclusive.*

9 **2.** *In any proceeding for forfeiture brought pursuant to NRS*
10 *179.1156 to 179.121, inclusive, the plaintiff may apply for, and a*
11 *court may issue without notice or hearing, a temporary restraining*
12 *order to preserve property which would be subject to forfeiture*
13 *pursuant to this section if:*

14 **(a)** *The forfeitable property is in the possession or control of*
15 *the party against whom the order will be entered; and*

16 **(b)** *The court determines that the nature of the property is*
17 *such that it can be concealed, disposed of or placed beyond the*
18 *jurisdiction of the court before a hearing on the matter.*

19 **3.** *A temporary restraining order which is issued without*
20 *notice may be issued for not more than 10 days and may be*
21 *extended only for good cause or by consent. The court shall*
22 *provide notice and hold a hearing on the matter before the order*
23 *expires.*

24 **Sec. 3. 1.** *In addition to any criminal penalty, if a person*
25 *violates any provision of NRS 201.300 to 201.340, inclusive, and*
26 *the victim of the offense is a child who is:*

27 **(a)** *At least 14 years of age but less than 18 years of age when*
28 *the offense is committed, except as otherwise provided in*
29 *subsection 2, the person is liable for a civil penalty of \$100,000.*

30 **(b)** *Less than 14 years of age when the offense is committed,*
31 *except as otherwise provided in subsection 2, the person is liable*
32 *for a civil penalty of \$500,000.*

33 **2.** *If a person violates any provision of NRS 201.300 to*
34 *201.340, inclusive, the victim of the offense is a child when the*
35 *offense is committed and the offense also involves a conspiracy to*
36 *commit a violation of NRS 201.300 to 201.340, inclusive, pursuant*
37 *to NRS 199.480, the person is liable for a civil penalty of*
38 *\$1,000,000.*



1 **3. Money collected from a civil penalty pursuant to this**
2 **section must be deposited with the county treasurer and**
3 **distributed:**

4 **(a) In an amount equal to 60 percent of the civil penalty**
5 **collected, to an account to be administered by the district attorney**
6 **to defray the cost of operational expenses.**

7 **(b) In an amount equal to 40 percent of the civil penalty**
8 **collected, to an account used for programs addressing the needs of**
9 **victims of the crimes described in NRS 201.300 to 201.340,**
10 **inclusive.**

11 **Sec. 4. If a person is charged with a violation of NRS**
12 **201.300 to 201.340, inclusive, in which the victim of the offense is**
13 **a child when the offense is committed, a prosecuting attorney shall**
14 **not dismiss such a charge in exchange for a plea of guilty, guilty**
15 **but mentally ill or nolo contendere to a lesser charge or for any**
16 **other reason unless he knows, or it is obvious, that the charge is**
17 **not supported by probable cause or cannot be proved at the time of**
18 **trial.**

19 **Sec. 5.** NRS 201.295 is hereby amended to read as follows:
20 201.295 As used in NRS 201.295 to 201.440, inclusive, **and**
21 **sections 2, 3 and 4 of this act**, unless the context otherwise requires:

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

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

24 3. "Prostitute" means a male or female person who for a fee
25 engages in sexual intercourse, oral-genital contact or any touching
26 of the sexual organs or other intimate parts of a person for the
27 purpose of arousing or gratifying the sexual desire of either person.

28 4. "Prostitution" means engaging in sexual conduct for a fee.

29 5. "Sexual conduct" means any of the acts enumerated in
30 subsection 3.

31 **Sec. 6.** NRS 179.121 is hereby amended to read as follows:

32 179.121 1. All personal property, including, without
33 limitation, any tool, substance, weapon, machine, computer, money
34 or security, which is used as an instrumentality in any of the
35 following crimes is subject to forfeiture:

36 (a) The commission of or attempted commission of the crime of
37 murder, robbery, kidnapping, burglary, invasion of the home, grand
38 larceny ~~;~~ **or** theft if it is punishable as a felony ~~;~~ **or pandering;**

39 (b) The commission of or attempted commission of any felony
40 with the intent to commit, cause, aid, further or conceal an act of
41 terrorism;

42 (c) A violation of NRS 202.445 or 202.446;

43 (d) The commission of any crime by a criminal gang, as defined
44 in NRS 213.1263; or



1 (e) A violation of NRS 200.463 to 200.468, inclusive, **201.300**
2 **to 201.340, inclusive**, 202.265, 202.287, 205.473 to 205.513,
3 inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395,
4 370.405 or 465.070 to 465.085, inclusive.

5 2. Except as otherwise provided for conveyances forfeitable
6 pursuant to NRS 453.301 or 501.3857, all conveyances, including
7 aircraft, vehicles or vessels, which are used or intended for use
8 during the commission of a felony or a violation of NRS 202.287,
9 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture
10 except that:

11 (a) A conveyance used by any person as a common carrier in the
12 transaction of business as a common carrier is not subject to
13 forfeiture under this section unless it appears that the owner or other
14 person in charge of the conveyance is a consenting party or privy to
15 the felony or violation;

16 (b) A conveyance is not subject to forfeiture under this section
17 by reason of any act or omission established by the owner thereof to
18 have been committed or omitted without his knowledge, consent or
19 willful blindness;

20 (c) A conveyance is not subject to forfeiture for a violation of
21 NRS 202.300 if the firearm used in the violation of that section was
22 not loaded at the time of the violation; and

23 (d) A forfeiture of a conveyance encumbered by a bona fide
24 security interest is subject to the interest of the secured party if he
25 neither had knowledge of nor consented to the felony. If a
26 conveyance is forfeited, the appropriate law enforcement agency
27 may pay the existing balance and retain the conveyance for official
28 use.

29 3. For the purposes of this section, a firearm is loaded if:

30 (a) There is a cartridge in the chamber of the firearm;

31 (b) There is a cartridge in the cylinder of the firearm, if the
32 firearm is a revolver; or

33 (c) There is a cartridge in the magazine and the magazine is in
34 the firearm or there is a cartridge in the chamber, if the firearm is a
35 semiautomatic firearm.

36 4. As used in this section, "act of terrorism" has the meaning
37 ascribed to it in NRS 202.4415.

