

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.

~

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;
authorizing a court to impose an additional criminal fine
on 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) in a proceeding for such a forfeiture, a temporary restraining order may be
- 11 entered by the court to freeze the assets of such a person. **Sections 2 and 5.5** of this
- 12 bill require the proceeds of the forfeiture, which remain after satisfying certain
- 13 protected interests and paying certain expenses related to the forfeiture proceeding,
- 14 be distributed to programs for the prevention of child prostitution which are
- 15 designated by the district attorney of the county.
- 16 **Section 3** of this bill provides that, in addition to the criminal penalties
- 17 prescribed by statute, a court may impose additional criminal fines on a person who
- 18 is convicted of an offense involving pandering or prostitution of a child.



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 **4.** *Any proceeds derived from a forfeiture of property*
25 *pursuant to this section and remaining after the distribution*
26 *required by subsection 1 of NRS 179.118 must be deposited with*
27 *the county treasurer and distributed to programs for the*
28 *prevention of child prostitution which are designated to receive*
29 *such distributions by the district attorney of the county.*

30 **Sec. 3. 1.** *If a person is convicted of a violation of any*
31 *provision of NRS 201.300 to 201.340, inclusive, and the victim of*
32 *the violation is a child who is:*

33 **(a)** *At least 14 years of age but less than 18 years of age when*
34 *the offense is committed, the court may, in addition to the*
35 *punishment prescribed by statute for the offense and any fine*
36 *imposed pursuant to subsection 2, impose a fine of not more than*
37 *\$100,000.*

38 **(b)** *Less than 14 years of age when the offense is committed,*
39 *the court may, in addition to the term of imprisonment prescribed*



* A B 3 8 0 R 1 *

1 *by statute for the offense and any fine imposed pursuant to*
2 *subsection 2, impose a fine of not more than \$500,000.*

3 *2. If a person is convicted of a violation of any provision of*
4 *NRS 201.300 to 201.340, inclusive, the victim of the offense is a*
5 *child when the offense is committed and the offense also involves*
6 *a conspiracy to commit a violation of NRS 201.300 to 201.340,*
7 *inclusive, the court may, in addition to the punishment prescribed*
8 *by statute for the offense of a provision of NRS 201.300 to*
9 *201.340, inclusive, and any fine imposed pursuant to subsection 1,*
10 *impose a fine of not more than \$500,000.*

11 *3. The provisions of subsections 1 and 2 do not create a*
12 *separate offense but provide an additional penalty for the primary*
13 *offense, the imposition of which is contingent upon the finding of*
14 *the prescribed fact.*

15 **Sec. 4.** (Deleted by amendment.)

16 **Sec. 5.** NRS 201.295 is hereby amended to read as follows:

17 201.295 As used in NRS 201.295 to 201.440, inclusive, *and*
18 *sections 2 and 3 of this act*, unless the context otherwise requires:

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

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

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

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

26 5. "Sexual conduct" means any of the acts enumerated in
27 subsection 3.

28 **Sec. 5.5.** NRS 179.118 is hereby amended to read as follows:

29 179.118 1. The proceeds from any sale or retention of
30 property declared to be forfeited and any interest accrued pursuant
31 to subsection 2 of NRS 179.1175 must be applied, first, to the
32 satisfaction of any protected interest established by a claimant in the
33 proceeding, then to the proper expenses of the proceeding for
34 forfeiture and resulting sale, including the expense of effecting the
35 seizure, the expense of maintaining custody, the expense of
36 advertising and the costs of the suit.

37 2. Any balance remaining after the distribution required by
38 subsection 1 must be deposited as follows:

39 (a) Except as otherwise provided in this subsection, if the
40 plaintiff seized the property, in the special account established
41 pursuant to NRS 179.1187 by the governing body that controls the
42 plaintiff.

43 (b) Except as otherwise provided in this subsection, if the
44 plaintiff is a metropolitan police department, in the special account



1 established by the Metropolitan Police Committee on Fiscal Affairs
2 pursuant to NRS 179.1187.

3 (c) Except as otherwise provided in this subsection, if more than
4 one agency was substantially involved in the seizure, in an equitable
5 manner to be directed by the court hearing the proceeding for
6 forfeiture.

7 (d) If the property was seized pursuant to NRS 200.760, in the
8 State Treasury for credit to the Fund for the Compensation of
9 Victims of Crime to be used for the counseling and the medical
10 treatment of victims of crimes committed in violation of NRS
11 200.366, 200.710 to 200.730, inclusive, or 201.230.

12 (e) If the property was seized as the result of a violation of NRS
13 202.300, in the general fund of the county in which the complaint
14 for forfeiture was filed, to be used to support programs of
15 counseling of persons ordered by the court to attend counseling
16 pursuant to NRS 62E.290.

17 *(f) If the property was forfeited pursuant to section 2 of this*
18 *act, with the county treasurer to be distributed in accordance with*
19 *the provisions of subsection 4 of section 2 of this act.*

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

21 179.121 1. All personal property, including, without
22 limitation, any tool, substance, weapon, machine, computer, money
23 or security, which is used as an instrumentality in any of the
24 following crimes is subject to forfeiture:

25 (a) The commission of or attempted commission of the crime of
26 murder, robbery, kidnapping, burglary, invasion of the home, grand
27 larceny ~~[.]~~ or theft if it is punishable as a felony ; ~~[, or pandering;]~~

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

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

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

34 (e) A violation of NRS 200.463 to 200.468, inclusive, **201.300**
35 **to 201.340, inclusive**, 202.265, 202.287, 205.473 to 205.513,
36 inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395,
37 370.405 or 465.070 to 465.085, inclusive.

38 2. Except as otherwise provided for conveyances forfeitable
39 pursuant to NRS 453.301 or 501.3857, all conveyances, including
40 aircraft, vehicles or vessels, which are used or intended for use
41 during the commission of a felony or a violation of NRS 202.287,
42 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture
43 except that:

44 (a) A conveyance used by any person as a common carrier in the
45 transaction of business as a common carrier is not subject to



1 forfeiture under this section unless it appears that the owner or other
2 person in charge of the conveyance is a consenting party or privy to
3 the felony or violation;

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

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

11 (d) A forfeiture of a conveyance encumbered by a bona fide
12 security interest is subject to the interest of the secured party if he
13 neither had knowledge of nor consented to the felony. If a
14 conveyance is forfeited, the appropriate law enforcement agency
15 may pay the existing balance and retain the conveyance for official
16 use.

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

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

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

21 (c) There is a cartridge in the magazine and the magazine is in
22 the firearm or there is a cartridge in the chamber, if the firearm is a
23 semiautomatic firearm.

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

