

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; requiring a peace officer to make an arrest with or without a warrant under certain circumstances; revising requirements for the automatic sealing of records in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits a customer from engaging in prostitution or solicitation
2 for prostitution except in a licensed house of prostitution. Existing law provides that
3 a customer who violates such a prohibition: (1) for a first offense that involves an
4 adult, is guilty of a misdemeanor, punishable by imprisonment in the county jail for
5 not more than 6 months and by a fine of not less than \$400 but not more than
6 \$1,000; (2) for a subsequent offense that involves an adult, is guilty of a gross
7 misdemeanor, punishable by imprisonment in the county jail for not more than 364
8 days and by certain minimum fines; and (3) for any offense, is subject to a civil
9 penalty of not less than \$200 per offense. Additionally, existing law provides for
10 the automatic sealing of records if a person is discharged and the proceedings
11 against the person are dismissed upon the fulfillment of the terms and conditions of
12 a court-ordered program for the treatment of persons who solicit prostitution.
13 (NRS 201.354)

14 This bill: (1) requires a peace officer to arrest a person if the peace officer has
15 probable cause to believe that the person has violated such a prohibition; (2)
16 increases the minimum fine for a first offense to not less than \$800; (3) increases
17 the civil penalty for any offense to \$600; and (4) authorizes a person to petition the
18 court 2 years after the person is discharged and the proceedings against the person
19 are dismissed for the sealing of all records relating to the discharge and dismissal.



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

1 **Section 1.** NRS 201.354 is hereby amended to read as follows:

2 201.354 1. It is unlawful for a customer to engage in
3 prostitution or solicitation therefor, except in a licensed house of
4 prostitution. *Whether or not a warrant has been issued, a peace*
5 *officer shall arrest a person if the peace officer has probable cause*
6 *to believe that the person to be arrested has violated this section.*

7 2. Any person who violates subsection 1 by soliciting for
8 prostitution:

9 (a) A child;

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

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

13 ↳ is guilty of soliciting a child for prostitution.

14 3. Except as otherwise provided in subsection 5, a person who
15 violates this section:

16 (a) For a first offense, is guilty of a misdemeanor and shall be
17 punished as provided in NRS 193.150, and by a fine of not less than
18 ~~[\$400.]~~ \$800.

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

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

25 4. In addition to any other penalty imposed, the court shall
26 order a person who violates subsection 1 to pay a civil penalty of not
27 less than ~~[\$200]~~ \$600 per offense. The civil penalty must be paid to
28 the district attorney or city attorney of the jurisdiction in which the
29 violation occurred. If the civil penalty imposed pursuant to this
30 subsection:

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

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

40 5. A person who violates this section by soliciting a child for
41 prostitution:



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

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

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

12 6. Any civil penalty collected by a district attorney or city
13 attorney pursuant to subsection 4 must be deposited in the county or
14 city treasury, as applicable, to be used for:

15 (a) The enforcement of this section; and

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

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

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



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

8 8. Except as limited by subsection 9, if a person is discharged
9 and the proceedings against the person are dismissed pursuant to
10 subsection 7, ~~[the court shall, without a hearing,]~~ *the person may*
11 *petition the court for the sealing of all records relating to the*
12 *discharge and dismissal 2 years after the date of the dismissal. The*
13 *court may* order sealed all documents, papers and exhibits in that
14 person's record, minute book entries and entries on dockets, and
15 other documents relating to the case in the custody of such other
16 agencies and officers as are named in the court's order. The court
17 shall cause a copy of the order to be sent to each agency or officer
18 named in the order. Each such agency or officer shall notify the
19 court in writing of its compliance with the order.

20 9. A professional licensing board is entitled, for the purpose of
21 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 **Sec. 2.** (Deleted by amendment.)

25 **Sec. 3.** (Deleted by amendment.)

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

27 **Sec. 5.** (Deleted by amendment.)

28 **Sec. 6.** (Deleted by amendment.)

29 **Sec. 7.** (Deleted by amendment.)

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

