

Senate Bill No. 164—Senators Scheible,
D. Harris and Ohrenschall

Joint Sponsors: Assemblymen Nguyen; González and Watts

CHAPTER.....

AN ACT relating to crimes; revising provisions relating to prostitution; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) prohibits a person from engaging in prostitution or solicitation for prostitution except in a licensed house of prostitution; (2) provides that a prostitute who violates such a prohibition is guilty of a misdemeanor; and (3) provides that a customer who violates such a prohibition is guilty, in general, of a misdemeanor for the first offense and a gross misdemeanor for a subsequent offense. (NRS 201.354) **Section 4** of this bill removes such a prohibition as it applies to prostitutes, thereby making the provisions of **section 4** only applicable to customers, and **section 2** of this bill adds the removed prohibition as a separate section applicable only to prostitutes.

Existing law requires a peace officer who detains, arrests or issues a citation to a prostitute for a violation of the prohibition against unlawfully engaging in prostitution or solicitation for prostitution to provide information relating to certain assistance for which the prostitute might be eligible. Existing law additionally requires a prosecuting attorney to dismiss the charge against a prostitute for such a violation if the prosecuting attorney has reason to believe that the prostitute is a victim of sex trafficking. (NRS 201.354) **Section 4** removes such provisions and **section 2** adds the removed provisions.

Section 3 of this bill makes a conforming change to indicate the placement of **section 2** in the Nevada Revised Statutes. **Sections 5, 6 and 9-13** of this bill make conforming changes to add references to **section 2**, thereby maintaining the applicability of those sections to the provisions of **section 2**. **Sections 7 and 8** of this bill make conforming changes to indicate that, in accordance with **section 4**, those sections are applicable only to customers of prostitutes.

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

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

Section 1. (Deleted by amendment.)

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

1. It is unlawful for a prostitute to engage in prostitution or solicitation thereof, except in a licensed house of prostitution.

2. A person who violates subsection 1 is guilty of a misdemeanor.

3. A peace officer who:



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

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

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

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

4. If, at any time before the trial of a person charged with a violation of subsection 1, the prosecuting attorney has reason to believe that the person is a victim of sex trafficking, the prosecuting attorney shall dismiss the charge. As used in this subsection, "sex trafficking" means a violation of subsection 2 of NRS 201.300.

Sec. 3. NRS 201.295 is hereby amended to read as follows:

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

1. "Adult" means a person 18 years of age or older.
2. "Child" means a person less than 18 years of age.
3. "Induce" means to persuade, encourage, inveigle or entice.
4. "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.
5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.
6. "Sexual conduct" means any of the acts enumerated in subsection 4.
7. "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. 4. NRS 201.354 is hereby amended to read as follows:

201.354 1. It is unlawful for ~~[any person]~~ **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 peace officer who is posing as a child; or

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

↳ is guilty of soliciting a child for prostitution.

3. ~~[A prostitute who violates subsection 1 is guilty of a misdemeanor. A peace officer who:~~

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

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

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

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

~~—4.]~~ Except as otherwise provided in subsection ~~[6,]~~ **5**, a ~~[customer]~~ **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.

~~[5.]~~ **4.** In addition to any other penalty imposed, the court shall order a person who violates subsection ~~[4]~~ **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.

~~[6.]~~ **5.** A ~~customer~~ **person** who violates this section by soliciting a child for prostitution:

(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.

~~[7.]~~ **6.** Any civil penalty collected by a district attorney or city attorney pursuant to subsection ~~[5.]~~ **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.

~~[8.]~~ **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.

~~[9.]~~ 8. Except as limited by subsection ~~[10.]~~ 9, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection ~~[8.]~~ 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.

~~[10.]~~ 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.

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



Sec. 5. NRS 201.358 is hereby amended to read as follows:
201.358 1. A person who:

(a) Violates NRS 201.354 ~~(1)~~ *or section 2 of this act*; or

(b) Works as a prostitute in a licensed house of prostitution,

↳ after testing positive in a test approved by the State Board of Health for exposure to the human immunodeficiency virus and receiving notice of that fact 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 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. As used in this section, “notice” means:

(a) Actual notice; or

(b) Notice received pursuant to NRS 201.356.

Sec. 6. NRS 207.203 is hereby amended to read as follows:

207.203 1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who commits a violation of NRS 207.200 by trespassing on the premises of a licensed gaming establishment and who has previously been convicted of three violations of NRS 201.354 *or section 2 of this act* within the immediately preceding 5 years is guilty of a misdemeanor and shall be punished by:

(a) A fine of \$1,000;

(b) Imprisonment in the county jail for not more than 6 months;

or

(c) Both fine and imprisonment.

↳ In lieu of all or a part of the punishment which may be imposed pursuant to this subsection, the person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

2. The court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place the person on probation upon terms and conditions that must include attendance and successful completion of:

(a) A counseling or educational program; or

(b) In the case of a person dependent upon substances, a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible for participation in such a program.

3. Upon violation of a term or condition, the court may enter a judgment of conviction and punish the person as provided in subsection 1.



4. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him or her.

5. Except as otherwise provided in subsection 6, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or 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 second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. 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 that arrest, indictment, information or trial in response to an inquiry made of the person for any purpose. Discharge and dismissal under this section may only occur once with respect to any person.

6. A professional licensing board may consider a proceeding under this section 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.

7. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

8. As used in this section, "licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

Sec. 7. NRS 4.373 is hereby amended to read as follows:

4.373 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a justice of the peace may suspend, for not more than 2 years, the sentence or a portion thereof of a person convicted of a misdemeanor. If the circumstances warrant, the justice of the peace may order as a condition of suspension, without limitation, that the offender:



(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct, or comply with any other condition, deemed appropriate by the justice of the peace;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the justice of the peace may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for alcohol or drug use disorder, or both, which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258; or

(c) The programs set forth in paragraphs (a) and (b),

↳ and that the person comply with any other condition of suspension ordered by the justice of the peace.

3. Except as otherwise provided in this subsection, if a **[person]** *customer of a prostitute* is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the justice of the peace may suspend the sentence for not more than 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services; and



(b) Comply with any other condition of suspension ordered by the justice of the peace.

↳ The justice of the peace may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The justice of the peace may order reports from a person whose sentence is suspended at such times as the justice of the peace deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the justice of the peace, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

5. The justice of the peace may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

Sec. 8. NRS 5.055 is hereby amended to read as follows:

5.055 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence or a portion thereof of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension, without limitation, that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct, or comply with any other condition, deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the municipal judge



may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for alcohol or drug use disorder, or both, which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258; or

(c) The programs set forth in paragraphs (a) and (b),

↳ and that the person comply with any other condition of suspension ordered by the municipal judge.

3. Except as otherwise provided in this subsection, if a **[person]** *customer of a prostitute* is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the municipal judge may suspend the sentence for not more than 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services; and

(b) Comply with any other condition of suspension ordered by the municipal judge.

↳ The municipal judge may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The municipal judge may order reports from a person whose sentence is suspended at such times as the municipal judge deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the municipal judge, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

5. The municipal judge may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

Sec. 9. NRS 62C.015 is hereby amended to read as follows:

62C.015 1. A child must not be adjudicated as delinquent or in need of supervision for engaging in prostitution or solicitation for



prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030 ~~or~~ *or section 2 of this act.*

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

(a) The child is alleged to have violated:

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

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

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

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

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

5. As used in this section:

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

(b) "Commercially sexually exploited child" has the meaning ascribed to it in NRS 424.0195.

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

Sec. 10. NRS 62E.275 is hereby amended to read as follows:

62E.275 1. If a child has been adjudicated delinquent for an unlawful act listed in subsection 2, the child may petition the juvenile court for an order:

(a) Vacating the adjudication; and

(b) Sealing all records relating to the adjudication.

2. A child may file a petition pursuant to subsection 1 if the child was adjudicated delinquent for an unlawful act in violation of:



(a) NRS 201.354 ~~H~~ *or section 2 of this act*, for engaging in prostitution or solicitation for prostitution, provided that the child was not alleged to be a customer of a prostitute;

(b) NRS 207.200, for unlawful trespass;

(c) Paragraph (b) of subsection 1 of NRS 463.350, for loitering;
or

(d) A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.

3. The juvenile court may grant a petition filed pursuant to subsection 1 if:

(a) The petitioner was adjudicated delinquent for an unlawful act described in subsection 2;

(b) The participation of the petitioner in the unlawful act was the result of the petitioner having been a victim of:

(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and

(c) The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.

4. Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:

(a) Notify the district attorney and the chief probation officer or the Chief of the Youth Parole Bureau and allow any person who has evidence that is relevant to consideration of the petition to testify at the hearing on the petition; and

(b) Take into consideration any reasonable concerns for the safety of the petitioner, family members of the petitioner or other victims that may be jeopardized by the granting of the petition.

5. If the court grants a petition filed pursuant to subsection 1, the court shall:

(a) Vacate the adjudication and dismiss the accusatory pleading; and

(b) Order sealed all records relating to the adjudication.

6. If a petition filed pursuant to subsection 1 does not satisfy the requirements of NRS 62H.130 or the juvenile court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the juvenile court may enter an order to vacate the adjudication and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the adjudication to be vacated.



7. If the juvenile court enters an order pursuant to subsection 6, the court shall also order sealed all records of the petitioner which relate to the adjudication being vacated in accordance with paragraph (b) of subsection 5, regardless of whether any records relating to other adjudications are ineligible for sealing either by operation of law or because of a deficiency in the petition.

Sec. 11. NRS 179.247 is hereby amended to read as follows:

179.247 1. If a person has been convicted of any offense listed in subsection 2, the person may petition the court in which he or she was convicted or, if the person wishes to file more than one petition and would otherwise need to file a petition in more than one court, the district court, for an order:

(a) Vacating the judgment; and

(b) Sealing all documents, papers and exhibits in the 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.

2. A person may file a petition pursuant to subsection 1 if the person was convicted of:

(a) A violation of NRS 201.354 ~~§~~ *or section 2 of this act*, for engaging in prostitution or solicitation for prostitution, provided that the person was not alleged to be a customer of a prostitute;

(b) A crime under the laws of this State, other than a crime of violence; or

(c) A violation of a county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.

3. A petition filed pursuant to subsection 1 must satisfy the requirements of NRS 179.245.

4. The court may grant a petition filed pursuant to subsection 1 if:

(a) The petitioner was convicted of a violation of an offense described in subsection 2;

(b) The participation of the petitioner in the offense was the result of the petitioner having been a victim of:

(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and

(c) The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.



5. Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:

(a) Notify the Central Repository for Nevada Records of Criminal History, the Office of the Attorney General and each office of the district attorney and law enforcement agency in the county in which the petitioner was convicted and allow the prosecuting attorney who prosecuted the petitioner for the crime and any person to testify and present evidence on behalf of any such entity; and

(b) Take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the granting of the petition.

6. If the prosecuting attorney who prosecuted the petitioner for the crime stipulates to vacating the judgment of the petitioner and sealing all documents, papers and exhibits related to the case after receiving notification pursuant to subsection 5 and the court makes the findings set forth in subsection 4, the court may vacate the judgment and seal all documents, papers and exhibits in accordance with subsection 7 without a hearing. If the prosecuting attorney does not stipulate to vacating the judgment and sealing the documents, papers and exhibits, a hearing on the petition must be conducted.

7. If the court grants a petition filed pursuant to subsection 1, the court shall:

(a) Vacate the judgment and dismiss the accusatory pleading; and

(b) Order sealed all documents, papers and exhibits in the petitioner'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.

8. If a petition filed pursuant to subsection 1 does not satisfy the requirements of NRS 179.245 or the court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the court may enter an order to vacate the judgment and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the judgment to be vacated.

9. If the court enters an order pursuant to subsection 8, the court shall also order sealed the records of the petitioner which relate to the judgment being vacated in accordance with paragraph (b) of subsection 7, regardless of whether any records relating to other convictions are ineligible for sealing either by operation of law or because of a deficiency in the petition.

10. As used in this section, "crime of violence" means:

(a) Any offense involving the use or threatened use of force or violence against the person or property of another; or



(b) Any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

Sec. 12. NRS 644A.850 is hereby amended to read as follows:

644A.850 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed or registered, as applicable, esthetician, cosmetologist, hair designer, shampoo technologist, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics, makeup artist or school of cosmetology to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Failure of a cosmetologist's apprentice, electrologist's apprentice, esthetician's apprentice, hair designer's apprentice or nail technologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(c) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(d) Gross malpractice.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(g) Advertising in violation of any of the provisions of NRS 644A.800 or 644A.935.

(h) Permitting a license or certificate of registration to be used where the holder thereof is not personally, actively and continuously engaged in business.

(i) Failure to display the license or certificate of registration or a duplicate of the license or certificate of registration as provided in NRS 644A.530, 644A.535, 644A.615, 644A.665 and 644A.710.

(j) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(k) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(l) Engaging in prostitution or solicitation for prostitution in violation of NRS 201.354 *or section 2 of this act* by the owner of a cosmetological establishment, an establishment for hair braiding or a facility in which threading is conducted, a licensee or a holder of a certificate of registration.



(m) Failure to comply with the provisions of NRS 454.217 or 629.086.

(n) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license or certificate of registration;

(b) Revoke or suspend a license or certificate of registration;

(c) Place the licensee or holder of a certificate of registration on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 13. NRS 644A.855 is hereby amended to read as follows:

644A.855 1. If the holder of a license or certificate of registration to operate a cosmetological establishment, an establishment for hair braiding or a facility in which threading is conducted or any other licensee or a holder of a certificate of registration issued pursuant to this chapter is charged with or cited for prostitution in violation of NRS 201.354 *or section 2 of this act* or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director of the Board. Upon receiving such a report, the Executive Director shall immediately forward the report to the Board or the Chair of the Board. The Board must meet as soon as practicable to consider the report. If the Board finds that the health, safety or welfare of the public imperatively require emergency action and issues a cease and desist order, the Executive Director shall immediately send the cease and desist order by certified mail to the licensee or holder of the certificate of registration. The temporary suspension of the license or certificate of registration is effective immediately after the licensee or holder of the certificate of registration receives notice of the cease and desist order and must not exceed 15 business days. The licensee or holder of the certificate of registration may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the Executive Director mails the cease and desist order. If the licensee or holder of the certificate of registration:



(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the licensee or holder of the certificate of registration immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Executive Director mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

2. For purposes of this section, a person is deemed to have notice of a temporary suspension of his or her license or certificate of registration:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 14. This act becomes effective on July 1, 2021.



