

ASSEMBLY BILL NO. 265—ASSEMBLYMEN LIVERMORE, HAMBRICK;
ELLISON, HARDY, KIRNER, WHEELER AND WOODBURY

MARCH 15, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the offense of sexual conduct between certain employees of a school or volunteers at a school and a pupil. (BDR 14-29)

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

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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 that certain employees of a school or volunteers at a school who are convicted of engaging in sexual conduct with a pupil are subject to various statutory provisions relating to sex offenders; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law: (1) requires a court to include a special sentence of lifetime
2 supervision for any person convicted of certain sexual offenses; and (2) provides
3 certain conditions of lifetime supervision. (NRS 176.0931, 213.1243) **Sections 1**
4 **and 10** of this bill add an offense involving sexual conduct between certain
5 employees of a school or volunteers at a school and a pupil to the list of sexual
6 offenses that require a sentence of lifetime supervision and for which certain
7 conditions of lifetime supervision apply.
8 Existing law: (1) requires a person convicted of certain sexual offenses to
9 undergo a psychosexual evaluation as part of the presentence investigation and
10 report prepared by the Division of Parole and Probation of the Department of
11 Public Safety; and (2) prohibits the court from granting probation to or suspending
12 the sentence of a person convicted of certain sexual offenses, unless the person who
13 conducts the psychosexual evaluation certifies that the person convicted of the
14 sexual offense does not represent a high risk to reoffend. (NRS 176.133, 176.135,
15 176A.110) **Sections 2 and 3** of this bill add an offense involving sexual conduct
16 between certain employees of a school or volunteers at a school and a pupil to the
17 list of sexual offenses which require a psychosexual evaluation as part of the
18 presentence investigation and report and which require a certification that
19 the person convicted does not represent a high risk to reoffend before the person
20 may be granted probation or have his or her sentence suspended.



21 Existing law requires the prosecuting attorney, sheriff or chief of police, upon
22 request, to inform a victim or witness of certain sexual offenses: (1) when the
23 defendant is released from custody at any time before or during the defendant's
24 trial; and (2) of the final disposition of the case involving the victim or witness.
25 (NRS 178.5698) **Section 4** of this bill adds to the list of sexual offenses that are
26 subject to such requirements concerning notification of a victim or witness an
27 offense involving sexual conduct between certain employees of a school or
28 volunteers at a school and a pupil.

29 Existing law allows a person convicted of certain offenses to petition the court
30 for the sealing of all records relating to the conviction, but does not authorize the
31 sealing of records relating to a conviction of certain sexual offenses. (NRS
32 179.245) **Section 5** of this bill adds to the list of sexual offenses for which the
33 sealing of records is not authorized an offense involving sexual conduct between
34 certain employees of a school or volunteers at a school and a pupil.

35 Existing law also defines the term "sexual offense" for the purpose of requiring
36 persons convicted of certain sexual offenses to register as a sex offender, to comply
37 with certain mandatory conditions of probation or parole and to fulfill certain other
38 requirements. (NRS 118A.335, 176A.410, 179D.097, 213.1099, 213.1245) **Section**
39 **6** of this bill revises the list of sexual offenses to which these statutory provisions
40 apply to include an offense involving sexual conduct between certain employees of
41 a school or volunteers at a school and a pupil.

42 Existing law establishes three tier levels, based on the severity of the crime, for
43 purposes of determining the period in which a sex offender or an offender
44 convicted of a crime against a child is subject to registration and community
45 notification. (NRS 179D.113-179D.117) **Section 7** of this bill makes a person a
46 Tier II offender if the person is convicted of an offense involving sexual conduct
47 between certain employees of a school or volunteers at a school and a pupil.

48 Existing law provides an enhanced penalty for certain repeat offenders who are
49 convicted of sexual assault or lewdness with a child under 14 years. (NRS 200.366,
50 201.230) **Section 9** of this bill adds to the list of offenses for which an enhanced
51 penalty is provided an offense involving sexual conduct between certain employees
52 of a school or volunteers at a school and a pupil.

53 Existing law provides that the Board of Parole Commissioners may not grant
54 parole to or continue the parole of a prisoner who has been convicted of certain
55 sexual offenses unless a panel first evaluates the prisoner's likelihood to reoffend in
56 a sexual manner. (NRS 213.1214) **Section 11** of this bill adds to the list of sexual
57 offenses for which such an evaluation is required an offense involving sexual
58 conduct between certain employees of a school or volunteers at a school and a
59 pupil.

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

1 **Section 1.** NRS 176.0931 is hereby amended to read as
2 follows:

3 176.0931 1. If a defendant is convicted of a sexual offense,
4 the court shall include in sentencing, in addition to any other
5 penalties provided by law, a special sentence of lifetime supervision.

6 2. The special sentence of lifetime supervision commences
7 after any period of probation or any term of imprisonment and any
8 period of release on parole.



1 3. A person sentenced to lifetime supervision may petition the
2 sentencing court or the State Board of Parole Commissioners for
3 release from lifetime supervision. The sentencing court or the Board
4 shall grant a petition for release from a special sentence of lifetime
5 supervision if:

6 (a) The person has complied with the requirements of the
7 provisions of NRS 179D.010 to 179D.550, inclusive;

8 (b) The person has not been convicted of an offense that poses a
9 threat to the safety or well-being of others for an interval of at least
10 10 consecutive years after the person's last conviction or release
11 from incarceration, whichever occurs later; and

12 (c) The person is not likely to pose a threat to the safety of
13 others, as determined by a person professionally qualified to
14 conduct psychosexual evaluations, if released from lifetime
15 supervision.

16 4. A person who is released from lifetime supervision pursuant
17 to the provisions of subsection 3 remains subject to the provisions
18 for registration as a sex offender and to the provisions for
19 community notification, unless the person is otherwise relieved from
20 the operation of those provisions pursuant to the provisions of NRS
21 179D.010 to 179D.550, inclusive.

22 5. As used in this section:

23 (a) "Offense that poses a threat to the safety or well-being of
24 others" includes, without limitation:

25 (1) An offense that involves:

26 (I) A victim less than 18 years of age;

27 (II) A crime against a child as defined in
28 NRS 179D.0357;

29 (III) A sexual offense as defined in NRS 179D.097;

30 (IV) A deadly weapon, explosives or a firearm;

31 (V) The use or threatened use of force or violence;

32 (VI) Physical or mental abuse;

33 (VII) Death or bodily injury;

34 (VIII) An act of domestic violence;

35 (IX) Harassment, stalking, threats of any kind or other
36 similar acts;

37 (X) The forcible or unlawful entry of a home, building,
38 structure, vehicle or other real or personal property; or

39 (XI) The infliction or threatened infliction of damage or
40 injury, in whole or in part, to real or personal property.

41 (2) Any offense listed in subparagraph (1) that is committed
42 in this State or another jurisdiction, including, without limitation, an
43 offense prosecuted in:

44 (I) A tribal court.



1 (II) A court of the United States or the Armed Forces of
2 the United States.

3 (b) "Person professionally qualified to conduct psychosexual
4 evaluations" has the meaning ascribed to it in NRS 176.133.

5 (c) "Sexual offense" means:

6 (1) A violation of NRS 200.366, subsection 4 of NRS
7 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730,
8 NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of
9 subsection 1 of NRS 201.195, NRS 201.230, ~~201.450~~, **201.540**
10 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of
11 subsection 5 of NRS 201.560;

12 (2) An attempt to commit an offense listed in subparagraph
13 (1); or

14 (3) An act of murder in the first or second degree,
15 kidnapping in the first or second degree, false imprisonment,
16 burglary or invasion of the home if the act is determined to be
17 sexually motivated at a hearing conducted pursuant to NRS 175.547.

18 **Sec. 2.** NRS 176.133 is hereby amended to read as follows:

19 176.133 As used in NRS 176.133 to 176.161, inclusive, unless
20 the context otherwise requires:

21 1. "Person professionally qualified to conduct psychosexual
22 evaluations" means a person who has received training in
23 conducting psychosexual evaluations and is:

24 (a) A psychiatrist licensed to practice medicine in this State and
25 certified by the American Board of Psychiatry and Neurology, Inc.;

26 (b) A psychologist licensed to practice in this State;

27 (c) A social worker holding a master's degree in social work and
28 licensed in this State as a clinical social worker;

29 (d) A registered nurse holding a master's degree in the field of
30 psychiatric nursing and licensed to practice professional nursing in
31 this State;

32 (e) A marriage and family therapist licensed in this State
33 pursuant to chapter 641A of NRS; or

34 (f) A clinical professional counselor licensed in this State
35 pursuant to chapter 641A of NRS.

36 2. "Psychosexual evaluation" means an evaluation conducted
37 pursuant to NRS 176.139.

38 3. "Sexual offense" means:

39 (a) Sexual assault pursuant to NRS 200.366;

40 (b) Statutory sexual seduction pursuant to NRS 200.368, if
41 punished as a felony;

42 (c) Battery with intent to commit sexual assault pursuant to
43 NRS 200.400;



1 (d) Abuse of a child pursuant to NRS 200.508, if the abuse
2 involved sexual abuse or sexual exploitation and is punished as a
3 felony;

4 (e) An offense involving pornography and a minor pursuant to
5 NRS 200.710 to 200.730, inclusive;

6 (f) Incest pursuant to NRS 201.180;

7 (g) Solicitation of a minor to engage in acts constituting the
8 infamous crime against nature pursuant to NRS 201.195, if punished
9 as a felony;

10 (h) Open or gross lewdness pursuant to NRS 201.210, if
11 punished as a felony;

12 (i) Indecent or obscene exposure pursuant to NRS 201.220, if
13 punished as a felony;

14 (j) Lewdness with a child pursuant to NRS 201.230;

15 (k) Sexual penetration of a dead human body pursuant to
16 NRS 201.450;

17 (l) *Sexual conduct between certain employees of a school or*
18 *volunteers at a school and a pupil pursuant to NRS 201.540;*

19 (m) Luring a child or a person with mental illness pursuant to
20 NRS 201.560, if punished as a felony;

21 ~~(m)~~ (n) An attempt to commit an offense listed in paragraphs
22 (a) to ~~(l)~~ (m), inclusive, if punished as a felony; or

23 ~~(n)~~ (o) An offense that is determined to be sexually motivated
24 pursuant to NRS 175.547 or 207.193.

25 **Sec. 3.** NRS 176A.110 is hereby amended to read as follows:

26 176A.110 1. The court shall not grant probation to or
27 suspend the sentence of a person convicted of an offense listed in
28 subsection 3 unless:

29 (a) If a psychosexual evaluation of the person is required
30 pursuant to NRS 176.139, the person who conducts the
31 psychosexual evaluation certifies in the report prepared pursuant to
32 NRS 176.139 that the person convicted of the offense does not
33 represent a high risk to reoffend based upon a currently accepted
34 standard of assessment; or

35 (b) If a psychosexual evaluation of the person is not required
36 pursuant to NRS 176.139, a psychologist licensed to practice in this
37 State who is trained to conduct psychosexual evaluations or a
38 psychiatrist licensed to practice medicine in this State who is
39 certified by the American Board of Psychiatry and Neurology, Inc.,
40 and is trained to conduct psychosexual evaluations certifies in a
41 written report to the court that the person convicted of the offense
42 does not represent a high risk to reoffend based upon a currently
43 accepted standard of assessment.

44 2. This section does not create a right in any person to be
45 certified or to continue to be certified. No person may bring a cause



1 of action against the State, its political subdivisions, or the agencies,
2 boards, commissions, departments, officers or employees of the
3 State or its political subdivisions for not certifying a person pursuant
4 to this section or for refusing to consider a person for certification
5 pursuant to this section.

6 3. The provisions of this section apply to a person convicted of
7 any of the following offenses:

8 (a) Attempted sexual assault of a person who is 16 years of age
9 or older pursuant to NRS 200.366.

10 (b) Statutory sexual seduction pursuant to NRS 200.368.

11 (c) Battery with intent to commit sexual assault pursuant to
12 NRS 200.400.

13 (d) Abuse or neglect of a child pursuant to NRS 200.508.

14 (e) An offense involving pornography and a minor pursuant to
15 NRS 200.710 to 200.730, inclusive.

16 (f) Incest pursuant to NRS 201.180.

17 (g) Solicitation of a minor to engage in acts constituting the
18 infamous crime against nature pursuant to NRS 201.195.

19 (h) Open or gross lewdness pursuant to NRS 201.210.

20 (i) Indecent or obscene exposure pursuant to NRS 201.220.

21 (j) Sexual penetration of a dead human body pursuant to
22 NRS 201.450.

23 (k) *Sexual conduct between certain employees of a school or*
24 *volunteers at a school and a pupil pursuant to NRS 201.540.*

25 (l) Luring a child or a person with mental illness pursuant to
26 NRS 201.560, if punished as a felony.

27 ~~(m)~~ (m) A violation of NRS 207.180.

28 ~~(n)~~ (n) An attempt to commit an offense listed in paragraphs
29 (b) to ~~(m)~~ (m), inclusive.

30 ~~(o)~~ (o) Coercion or attempted coercion that is determined to be
31 sexually motivated pursuant to NRS 207.193.

32 **Sec. 4.** NRS 178.5698 is hereby amended to read as follows:

33 178.5698 1. The prosecuting attorney, sheriff or chief of
34 police shall, upon the request of a victim or witness, inform the
35 victim or witness:

36 (a) When the defendant is released from custody at any time
37 before or during the trial, including, without limitation, when the
38 defendant is released pending trial or subject to electronic
39 supervision;

40 (b) If the defendant is so released, the amount of bail required, if
41 any; and

42 (c) Of the final disposition of the criminal case in which the
43 victim or witness was directly involved.

44 2. A request for information pursuant to subsection 1 must be
45 made:



- 1 (a) In writing; or
- 2 (b) By telephone through an automated or computerized system
- 3 of notification, if such a system is available.

4 3. If an offender is convicted of a sexual offense or an offense
5 involving the use or threatened use of force or violence against the
6 victim, the court shall provide:

7 (a) To each witness, documentation that includes:

8 (1) A form advising the witness of the right to be notified
9 pursuant to subsection 5;

10 (2) The form that the witness must use to request notification
11 in writing; and

12 (3) The form or procedure that the witness must use to
13 provide a change of address after a request for notification has been
14 submitted.

15 (b) To each person listed in subsection 4, documentation that
16 includes:

17 (1) A form advising the person of the right to be notified
18 pursuant to subsection 5 or 6 and NRS 176.015, 176A.630,
19 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095
20 and 213.131;

21 (2) The forms that the person must use to request
22 notification; and

23 (3) The forms or procedures that the person must use to
24 provide a change of address after a request for notification has been
25 submitted.

26 4. The following persons are entitled to receive documentation
27 pursuant to paragraph (b) of subsection 3:

28 (a) A person against whom the offense is committed.

29 (b) A person who is injured as a direct result of the commission
30 of the offense.

31 (c) If a person listed in paragraph (a) or (b) is under the age of
32 18 years, each parent or guardian who is not the offender.

33 (d) Each surviving spouse, parent and child of a person who is
34 killed as a direct result of the commission of the offense.

35 (e) A relative of a person listed in paragraphs (a) to (d),
36 inclusive, if the relative requests in writing to be provided with the
37 documentation.

38 5. Except as otherwise provided in subsection 6, if the offense
39 was a felony and the offender is imprisoned, the warden of the
40 prison shall, if the victim or witness so requests in writing and
41 provides a current address, notify the victim or witness at that
42 address when the offender is released from the prison.

43 6. If the offender was convicted of a violation of subsection 3
44 of NRS 200.366 or a violation of subsection 1, paragraph (a) of



1 subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of
2 NRS 200.508, the warden of the prison shall notify:

3 (a) The immediate family of the victim if the immediate family
4 provides their current address;

5 (b) Any member of the victim's family related within the third
6 degree of consanguinity, if the member of the victim's family so
7 requests in writing and provides a current address; and

8 (c) The victim, if the victim will be 18 years of age or older at
9 the time of the release and has provided a current address,

10 ➔ before the offender is released from prison.

11 7. The warden must not be held responsible for any injury
12 proximately caused by the failure to give any notice required
13 pursuant to this section if no address was provided to the warden or
14 if the address provided is inaccurate or not current.

15 8. As used in this section:

16 (a) "Immediate family" means any adult relative of the victim
17 living in the victim's household.

18 (b) "Sexual offense" means:

19 (1) Sexual assault pursuant to NRS 200.366;

20 (2) Statutory sexual seduction pursuant to NRS 200.368;

21 (3) Battery with intent to commit sexual assault pursuant to
22 NRS 200.400;

23 (4) An offense involving pornography and a minor pursuant
24 to NRS 200.710 to 200.730, inclusive;

25 (5) Incest pursuant to NRS 201.180;

26 (6) Solicitation of a minor to engage in acts constituting the
27 infamous crime against nature pursuant to NRS 201.195;

28 (7) Open or gross lewdness pursuant to NRS 201.210;

29 (8) Indecent or obscene exposure pursuant to NRS 201.220;

30 (9) Lewdness with a child pursuant to NRS 201.230;

31 (10) Sexual penetration of a dead human body pursuant to
32 NRS 201.450;

33 (11) *Sexual conduct between certain employees of a school
34 or volunteers at a school and a pupil pursuant to NRS 201.540;*

35 (12) Luring a child or a person with mental illness pursuant
36 to NRS 201.560, if punished as a felony;

37 ~~(12)~~ (13) An offense that, pursuant to a specific statute, is
38 determined to be sexually motivated; or

39 ~~(13)~~ (14) An attempt to commit an offense listed in this
40 paragraph.

41 **Sec. 5.** NRS 179.245 is hereby amended to read as follows:

42 179.245 1. Except as otherwise provided in subsection 5 and
43 NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a
44 person may petition the court in which the person was convicted for
45 the sealing of all records relating to a conviction of:



1 (a) A category A or B felony after 15 years from the date of
2 release from actual custody or discharge from parole or probation,
3 whichever occurs later;

4 (b) A category C or D felony after 12 years from the date of
5 release from actual custody or discharge from parole or probation,
6 whichever occurs later;

7 (c) A category E felony after 7 years from the date of release
8 from actual custody or discharge from parole or probation,
9 whichever occurs later;

10 (d) Any gross misdemeanor after 7 years from the date of
11 release from actual custody or discharge from probation, whichever
12 occurs later;

13 (e) A violation of NRS 484C.110 or 484C.120 other than a
14 felony, or a battery which constitutes domestic violence pursuant to
15 NRS 33.018 other than a felony, after 7 years from the date of
16 release from actual custody or from the date when the person is no
17 longer under a suspended sentence, whichever occurs later; or

18 (f) Any other misdemeanor after 2 years from the date of release
19 from actual custody or from the date when the person is no longer
20 under a suspended sentence, whichever occurs later.

21 2. A petition filed pursuant to subsection 1 must:

22 (a) Be accompanied by current, verified records of the
23 petitioner's criminal history received from:

24 (1) The Central Repository for Nevada Records of Criminal
25 History; and

26 (2) The local law enforcement agency of the city or county in
27 which the conviction was entered;

28 (b) Include a list of any other public or private agency,
29 company, official or other custodian of records that is reasonably
30 known to the petitioner to have possession of records of the
31 conviction and to whom the order to seal records, if issued, will be
32 directed; and

33 (c) Include information that, to the best knowledge and belief of
34 the petitioner, accurately and completely identifies the records to be
35 sealed.

36 3. Upon receiving a petition pursuant to this section, the court
37 shall notify the law enforcement agency that arrested the petitioner
38 for the crime and:

39 (a) If the person was convicted in a district court or justice court,
40 the prosecuting attorney for the county; or

41 (b) If the person was convicted in a municipal court, the
42 prosecuting attorney for the city.

43 ↪ The prosecuting attorney and any person having relevant
44 evidence may testify and present evidence at the hearing on the
45 petition.



1 4. If, after the hearing, the court finds that, in the period
2 prescribed in subsection 1, the petitioner has not been charged with
3 any offense for which the charges are pending or convicted of any
4 offense, except for minor moving or standing traffic violations, the
5 court may order sealed all records of the conviction which are in the
6 custody of the court, of another court in the State of Nevada or of a
7 public or private agency, company or official in the State of Nevada,
8 and may also order all such criminal identification records of the
9 petitioner returned to the file of the court where the proceeding was
10 commenced from, including, but not limited to, the Federal Bureau
11 of Investigation, the California Bureau of Criminal Identification
12 and Information, sheriffs' offices and all other law enforcement
13 agencies reasonably known by either the petitioner or the court to
14 have possession of such records.

15 5. A person may not petition the court to seal records relating
16 to a conviction of a crime against a child or a sexual offense.

17 6. If the court grants a petition for the sealing of records
18 pursuant to this section, upon the request of the person whose
19 records are sealed, the court may order sealed all records of the civil
20 proceeding in which the records were sealed.

21 7. As used in this section:

22 (a) "Crime against a child" has the meaning ascribed to it in
23 NRS 179D.0357.

24 (b) "Sexual offense" means:

25 (1) Murder of the first degree committed in the perpetration
26 or attempted perpetration of sexual assault or of sexual abuse or
27 sexual molestation of a child less than 14 years of age pursuant to
28 paragraph (b) of subsection 1 of NRS 200.030.

29 (2) Sexual assault pursuant to NRS 200.366.

30 (3) Statutory sexual seduction pursuant to NRS 200.368, if
31 punishable as a felony.

32 (4) Battery with intent to commit sexual assault pursuant to
33 NRS 200.400.

34 (5) An offense involving the administration of a drug to
35 another person with the intent to enable or assist the commission of
36 a felony pursuant to NRS 200.405, if the felony is an offense listed
37 in this paragraph.

38 (6) An offense involving the administration of a controlled
39 substance to another person with the intent to enable or assist the
40 commission of a crime of violence pursuant to NRS 200.408, if the
41 crime of violence is an offense listed in this paragraph.

42 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
43 involved sexual abuse or sexual exploitation.

44 (8) An offense involving pornography and a minor pursuant
45 to NRS 200.710 to 200.730, inclusive.



- 1 (9) Incest pursuant to NRS 201.180.
2 (10) Solicitation of a minor to engage in acts constituting the
3 infamous crime against nature pursuant to NRS 201.195.
4 (11) Open or gross lewdness pursuant to NRS 201.210, if
5 punishable as a felony.
6 (12) Indecent or obscene exposure pursuant to NRS 201.220,
7 if punishable as a felony.
8 (13) Lewdness with a child pursuant to NRS 201.230.
9 (14) Sexual penetration of a dead human body pursuant to
10 NRS 201.450.
11 (15) *Sexual conduct between certain employees of a school*
12 *or volunteers at a school and a pupil pursuant to NRS 201.540.*
13 (16) Luring a child or a person with mental illness pursuant
14 to NRS 201.560, if punishable as a felony.
15 ~~(16)~~ (17) An attempt to commit an offense listed in
16 subparagraphs (1) to ~~(15)~~ (16), inclusive.
17 **Sec. 6.** NRS 179D.097 is hereby amended to read as follows:
18 179D.097 1. "Sexual offense" means any of the following
19 offenses:
20 (a) Murder of the first degree committed in the perpetration or
21 attempted perpetration of sexual assault or of sexual abuse or sexual
22 molestation of a child less than 14 years of age pursuant to
23 paragraph (b) of subsection 1 of NRS 200.030.
24 (b) Sexual assault pursuant to NRS 200.366.
25 (c) Statutory sexual seduction pursuant to NRS 200.368.
26 (d) Battery with intent to commit sexual assault pursuant to
27 subsection 4 of NRS 200.400.
28 (e) An offense involving the administration of a drug to another
29 person with the intent to enable or assist the commission of a felony
30 pursuant to NRS 200.405, if the felony is an offense listed in this
31 section.
32 (f) An offense involving the administration of a controlled
33 substance to another person with the intent to enable or assist the
34 commission of a crime of violence pursuant to NRS 200.408, if the
35 crime of violence is an offense listed in this section.
36 (g) Abuse of a child pursuant to NRS 200.508, if the abuse
37 involved sexual abuse or sexual exploitation.
38 (h) An offense involving pornography and a minor pursuant to
39 NRS 200.710 to 200.730, inclusive.
40 (i) Incest pursuant to NRS 201.180.
41 (j) Solicitation of a minor to engage in acts constituting the
42 infamous crime against nature pursuant to NRS 201.195.
43 (k) Open or gross lewdness pursuant to NRS 201.210.
44 (l) Indecent or obscene exposure pursuant to NRS 201.220.
45 (m) Lewdness with a child pursuant to NRS 201.230.



1 (n) Sexual penetration of a dead human body pursuant to
2 NRS 201.450.

3 (o) *Sexual conduct between certain employees of a school or*
4 *volunteers at a school and a pupil pursuant to NRS 201.540.*

5 (p) Luring a child or a person with mental illness pursuant to
6 NRS 201.560, if punished as a felony.

7 ~~(q)~~ (q) Any other offense that has an element involving a
8 sexual act or sexual conduct with another.

9 ~~(r)~~ (r) An attempt or conspiracy to commit an offense listed in
10 paragraphs (a) to ~~(p)~~ (q), inclusive.

11 ~~(s)~~ (s) An offense that is determined to be sexually motivated
12 pursuant to NRS 175.547 or 207.193.

13 ~~(t)~~ (t) An offense committed in another jurisdiction that, if
14 committed in this State, would be an offense listed in this section.
15 This paragraph includes, without limitation, an offense prosecuted
16 in:

17 (1) A tribal court.

18 (2) A court of the United States or the Armed Forces of the
19 United States.

20 ~~(u)~~ (u) An offense of a sexual nature committed in another
21 jurisdiction, whether or not the offense would be an offense listed in
22 this section, if the person who committed the offense resides or has
23 resided or is or has been a student or worker in any jurisdiction in
24 which the person is or has been required by the laws of that
25 jurisdiction to register as a sex offender because of the offense. This
26 paragraph includes, without limitation, an offense prosecuted in:

27 (1) A tribal court.

28 (2) A court of the United States or the Armed Forces of the
29 United States.

30 (3) A court having jurisdiction over juveniles.

31 2. The term does not include an offense involving consensual
32 sexual conduct if the victim was:

33 (a) An adult, unless the adult was under the custodial authority
34 of the offender at the time of the offense; or

35 (b) At least 13 years of age and the offender was not more than
36 4 years older than the victim at the time of the commission of the
37 offense.

38 **Sec. 7.** NRS 179D.115 is hereby amended to read as follows:

39 179D.115 "Tier II offender" means an offender convicted of a
40 crime against a child or a sex offender, other than a Tier III
41 offender, whose crime against a child is punishable by
42 imprisonment for more than 1 year or whose sexual offense:

43 1. If committed against a child, constitutes:

44 (a) *Sexual conduct between certain employees of a school or*
45 *volunteers at a school and a pupil pursuant to NRS 201.540;*



- 1 (b) Luring a child pursuant to NRS 201.560, if punishable as a
2 felony;
- 3 ~~(b)~~ (c) Abuse of a child pursuant to NRS 200.508, if the abuse
4 involved sexual abuse or sexual exploitation;
- 5 ~~(c)~~ (d) An offense involving pandering or prostitution
6 pursuant to NRS 201.300 to 201.340, inclusive;
- 7 ~~(d)~~ (e) An offense involving pornography and a minor
8 pursuant to NRS 200.710 to 200.730, inclusive; or
- 9 ~~(e)~~ (f) Any other offense that is comparable to or more severe
10 than the offenses described in 42 U.S.C. § 16911(3);
- 11 2. Involves an attempt or conspiracy to commit any offense
12 described in subsection 1;
- 13 3. If committed in another jurisdiction, is an offense that, if
14 committed in this State, would be an offense listed in this section.
15 This subsection includes, without limitation, an offense prosecuted
16 in:
- 17 (a) A tribal court; or
- 18 (b) A court of the United States or the Armed Forces of the
19 United States; or
- 20 4. Is committed after the person becomes a Tier I offender if
21 any of the person's sexual offenses constitute an offense punishable
22 by imprisonment for more than 1 year.

23 **Sec. 8.** NRS 179D.495 is hereby amended to read as follows:

24 179D.495 If a person who is required to register pursuant to
25 NRS 179D.010 to 179D.550, inclusive, has been convicted of an
26 offense described in paragraph ~~(e)~~ (q) of subsection 1 of NRS
27 179D.097, paragraph ~~(e)~~ (f) of subsection 1 or subsection 3 of
28 NRS 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central
29 Repository shall determine whether the person is required to register
30 as a Tier I offender, Tier II offender or Tier III offender.

31 **Sec. 9.** NRS 200.366 is hereby amended to read as follows:

32 200.366 1. A person who subjects another person to sexual
33 penetration, or who forces another person to make a sexual
34 penetration on himself or herself or another, or on a beast, against
35 the will of the victim or under conditions in which the perpetrator
36 knows or should know that the victim is mentally or physically
37 incapable of resisting or understanding the nature of his or her
38 conduct, is guilty of sexual assault.

39 2. Except as otherwise provided in subsections 3 and 4, a
40 person who commits a sexual assault is guilty of a category A
41 felony and shall be punished:

42 (a) If substantial bodily harm to the victim results from the
43 actions of the defendant committed in connection with or as a part
44 of the sexual assault, by imprisonment in the state prison:

45 (1) For life without the possibility of parole; or



1 (2) For life with the possibility of parole, with eligibility for
2 parole beginning when a minimum of 15 years has been served.

3 (b) If no substantial bodily harm to the victim results, by
4 imprisonment in the state prison for life with the possibility of
5 parole, with eligibility for parole beginning when a minimum of 10
6 years has been served.

7 3. Except as otherwise provided in subsection 4, a person who
8 commits a sexual assault against a child under the age of 16 years is
9 guilty of a category A felony and shall be punished:

10 (a) If the crime results in substantial bodily harm to the child, by
11 imprisonment in the state prison for life without the possibility of
12 parole.

13 (b) Except as otherwise provided in paragraph (c), if the crime
14 does not result in substantial bodily harm to the child, by
15 imprisonment in the state prison for life with the possibility of
16 parole, with eligibility for parole beginning when a minimum of 25
17 years has been served.

18 (c) If the crime is committed against a child under the age of 14
19 years and does not result in substantial bodily harm to the child, by
20 imprisonment in the state prison for life with the possibility of
21 parole, with eligibility for parole beginning when a minimum of 35
22 years has been served.

23 4. A person who commits a sexual assault against a child under
24 the age of 16 years and who has been previously convicted of:

25 (a) A sexual assault pursuant to this section or any other sexual
26 offense against a child; or

27 (b) An offense committed in another jurisdiction that, if
28 committed in this State, would constitute a sexual assault pursuant
29 to this section or any other sexual offense against a child,

30 is guilty of a category A felony and shall be punished by
31 imprisonment in the state prison for life without the possibility of
32 parole.

33 5. For the purpose of this section, "other sexual offense against
34 a child" means any act committed by an adult upon a child
35 constituting:

36 (a) Incest pursuant to NRS 201.180;

37 (b) Lewdness with a child pursuant to NRS 201.230;

38 (c) Sado-masochistic abuse pursuant to NRS 201.262; ~~or~~

39 (d) *Sexual conduct between certain employees of a school or*
40 *volunteers at a school and a pupil pursuant to NRS 201.540; or*

41 (e) Luring a child using a computer, system or network pursuant
42 to NRS 201.560, if punished as a felony.

43 **Sec. 10.** NRS 213.107 is hereby amended to read as follows:

44 213.107 As used in NRS 213.107 to 213.157, inclusive, unless
45 the context otherwise requires:



- 1 1. "Board" means the State Board of Parole Commissioners.
- 2 2. "Chief" means the Chief Parole and Probation Officer.
- 3 3. "Division" means the Division of Parole and Probation of
- 4 the Department of Public Safety.
- 5 4. "Residential confinement" means the confinement of a
- 6 person convicted of a crime to his or her place of residence under
- 7 the terms and conditions established by the Board.
- 8 5. "Sex offender" means any person who has been or is
- 9 convicted of a sexual offense.
- 10 6. "Sexual offense" means:
- 11 (a) A violation of NRS 200.366, subsection 4 of NRS 200.400,
- 12 NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS
- 13 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of
- 14 subsection 1 of NRS 201.195, NRS 201.230 , ~~201.450~~, **201.540**
- 15 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of
- 16 subsection 5 of NRS 201.560;
- 17 (b) An attempt to commit any offense listed in paragraph (a); or
- 18 (c) An act of murder in the first or second degree, kidnapping in
- 19 the first or second degree, false imprisonment, burglary or invasion
- 20 of the home if the act is determined to be sexually motivated at a
- 21 hearing conducted pursuant to NRS 175.547.
- 22 7. "Standards" means the objective standards for granting or
- 23 revoking parole or probation which are adopted by the Board or the
- 24 Chief.

25 **Sec. 11.** NRS 213.1214 is hereby amended to read as follows:

26 213.1214 1. The Board shall not grant parole to or continue

27 the parole of a prisoner who has served, is serving or has yet to

28 serve a sentence on his or her current term of imprisonment for

29 having been convicted of an offense listed in subsection 8 unless a

30 panel consisting of:

31 (a) The Administrator of the Division of Mental Health and

32 Developmental Services of the Department of Health and Human

33 Services or his or her designee;

34 (b) The Director of the Department of Corrections or his or her

35 designee; and

36 (c) A psychologist licensed to practice in this State or a

37 psychiatrist licensed to practice medicine in this State,

38 ↪ evaluates the prisoner, within 120 days before a hearing to

39 consider granting or continuing his or her parole, using a currently

40 accepted standard of assessment to determine the prisoner's

41 likelihood to reoffend in a sexual manner. The panel shall provide a

42 report of its evaluation to the Board before the hearing.

43 2. The Board may require the panel to conduct an evaluation of

44 a prisoner who is a sex offender if an evaluation may assist the

45 Board in determining whether parole should be granted or



1 continued. The panel shall provide a report of its evaluation to the
2 Board before the hearing to consider granting or continuing the
3 prisoner's parole.

4 3. This section does not create a right in any prisoner to be
5 evaluated or reevaluated more frequently than the prisoner's
6 regularly scheduled parole hearings or under a current or previous
7 standard of assessment and does not restrict the panel from
8 conducting additional evaluations of a prisoner if such evaluations
9 may assist the Board in determining whether parole should be
10 granted or continued. No cause of action may be brought against the
11 State, its political subdivisions, or the agencies, boards,
12 commissions, departments, officers or employees of the State or its
13 political subdivisions for evaluating, not evaluating or considering
14 or relying on an evaluation of a prisoner, if such decisions or actions
15 are made or conducted in compliance with the procedures set forth
16 in this section.

17 4. The panel shall adopt regulations pertaining to the
18 evaluation of prisoners subject to the provisions of this section to
19 determine a prisoner's risk to reoffend in a sexual manner. The
20 regulations must be adopted in accordance with the provisions of
21 chapter 233B of NRS and must be codified in the Nevada
22 Administrative Code.

23 5. The regulations adopted pursuant to subsection 4 must
24 require that:

25 (a) The evaluation be based on currently accepted standards of
26 assessment designed to determine the risk of an offender to reoffend
27 in a sexual manner;

28 (b) The report of the evaluation contain a statement rating the
29 prisoner as a low, moderate or high risk to reoffend in a sexual
30 manner; and

31 (c) If the report of the evaluation varies from the standard of
32 assessment, the panel include a written statement of any mitigating
33 or aggravating factors which justified such deviation.

34 6. The panel shall:

35 (a) Review the standards of assessment and procedures adopted
36 by regulation at least once every 3 years; and

37 (b) Make a finding regarding the validity of the use of any
38 standard of assessment.

39 7. If the panel finds that a standard of assessment is ineffective,
40 or another standard of assessment is more effective, in predicting
41 whether a prisoner may reoffend in a sexual manner, the panel may
42 discontinue the use of the current standard of assessment and adopt
43 a new standard of assessment that is determined to be more
44 effective.



1 8. The provisions of this section apply to a prisoner convicted
2 of any of the following offenses:

3 (a) Sexual assault pursuant to NRS 200.366.

4 (b) Statutory sexual seduction pursuant to NRS 200.368.

5 (c) Battery with intent to commit sexual assault pursuant to
6 NRS 200.400.

7 (d) Abuse or neglect of a child pursuant to NRS 200.508, if the
8 abuse involved sexual abuse or sexual exploitation and is punished
9 as a felony.

10 (e) An offense involving pornography and a minor pursuant to
11 NRS 200.710 to 200.730, inclusive.

12 (f) Incest pursuant to NRS 201.180.

13 (g) Solicitation of a minor to engage in acts constituting the
14 infamous crime against nature pursuant to NRS 201.195.

15 (h) Open or gross lewdness pursuant to NRS 201.210.

16 (i) Indecent or obscene exposure pursuant to NRS 201.220.

17 (j) Lewdness with a child pursuant to NRS 201.230.

18 (k) Sexual penetration of a dead human body pursuant to
19 NRS 201.450.

20 (l) *Sexual conduct between certain employees of a school or*
21 *volunteers at a school and a pupil pursuant to NRS 201.540.*

22 (m) Luring a child or a person with mental illness pursuant to
23 NRS 201.560, if punished as a felony.

24 ~~(m)~~ (n) An attempt to commit an offense listed in paragraphs
25 (a) to ~~(l)~~, (m), inclusive.

26 ~~(n)~~ (o) An offense that is determined to be sexually motivated
27 pursuant to NRS 175.547.

28 ~~(o)~~ (p) Coercion or attempted coercion that is determined to
29 be sexually motivated pursuant to NRS 207.193.

30 9. The Board may adopt by regulation the manner in which the
31 Board will consider an evaluation prepared pursuant to this section
32 in conjunction with the standards adopted by the Board pursuant to
33 NRS 213.10885.

34 10. Meetings of a panel pursuant to this section must be
35 conducted in accordance with the provisions of chapter 241 of NRS.

36 11. As used in this section:

37 (a) "Current term of imprisonment" means one or more
38 sentences being served concurrently or consecutively with the
39 sentence first imposed.

40 (b) "Reoffend in a sexual manner" means to commit any offense
41 listed in subsection 8.

42 (c) "Sex offender" means a person who, after July 1, 1956, is or
43 has been:

44 (1) Convicted of a sexual offense; or



1 (2) Adjudicated delinquent or found guilty by a court having
2 jurisdiction over juveniles of a sexual offense listed in subparagraph
3 ~~19~~ 20 of paragraph (d).

4 ↳ The term includes, but is not limited to, a sexually violent
5 predator or a nonresident sex offender who is a student or worker
6 within this State.

7 (d) "Sexual offense" means any of the following offenses:

8 (1) Murder of the first degree committed in the perpetration
9 or attempted perpetration of sexual assault or of sexual abuse or
10 sexual molestation of a child less than 14 years of age pursuant to
11 paragraph (b) of subsection 1 of NRS 200.030.

12 (2) Sexual assault pursuant to NRS 200.366.

13 (3) Statutory sexual seduction pursuant to NRS 200.368.

14 (4) Battery with intent to commit sexual assault pursuant to
15 NRS 200.400.

16 (5) An offense involving the administration of a drug to
17 another person with the intent to enable or assist the commission of
18 a felony pursuant to NRS 200.405, if the felony is an offense listed
19 in this paragraph.

20 (6) An offense involving the administration of a controlled
21 substance to another person with the intent to enable or assist the
22 commission of a crime of violence pursuant to NRS 200.408, if the
23 crime of violence is an offense listed in this paragraph.

24 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
25 involved sexual abuse or sexual exploitation.

26 (8) An offense involving pornography and a minor pursuant
27 to NRS 200.710 to 200.730, inclusive.

28 (9) Incest pursuant to NRS 201.180.

29 (10) Solicitation of a minor to engage in acts constituting the
30 infamous crime against nature pursuant to NRS 201.195.

31 (11) Open or gross lewdness pursuant to NRS 201.210.

32 (12) Indecent or obscene exposure pursuant to NRS 201.220.

33 (13) Lewdness with a child pursuant to NRS 201.230.

34 (14) Sexual penetration of a dead human body pursuant to
35 NRS 201.450.

36 (15) *Sexual conduct between certain employees of a school*
37 *or volunteers at a school and a pupil pursuant to NRS 201.540.*

38 (16) Luring a child or a person with mental illness pursuant
39 to NRS 201.560, if punished as a felony.

40 ~~(16)~~ (17) An attempt or conspiracy to commit an offense
41 listed in subparagraphs (1) to ~~(15)~~, (16), inclusive.

42 ~~(17)~~ (18) An offense that is determined to be sexually
43 motivated pursuant to NRS 175.547 or 207.193.

44 ~~(18)~~ (19) An offense committed in another jurisdiction
45 that, if committed in this State, would be an offense listed in this



1 paragraph. This subparagraph includes, but is not limited to, an
2 offense prosecuted in:

3 (I) A tribal court.

4 (II) A court of the United States or the Armed Forces of
5 the United States.

6 ~~(19)~~ (20) An offense of a sexual nature committed in
7 another jurisdiction, whether or not the offense would be an offense
8 listed in this paragraph, if the person who committed the offense
9 resides or has resided or is or has been a student or worker in any
10 jurisdiction in which the person is or has been required by the laws
11 of that jurisdiction to register as a sex offender because of the
12 offense. This subparagraph includes, but is not limited to, an offense
13 prosecuted in:

14 (I) A tribal court.

15 (II) A court of the United States or the Armed Forces of
16 the United States.

17 (III) A court having jurisdiction over juveniles.

18 ➔ The term does not include an offense involving consensual sexual
19 conduct if the victim was an adult, unless the adult was under the
20 custodial authority of the offender at the time of the offense, or if
21 the victim was at least 13 years of age and the offender was not
22 more than 4 years older than the victim at the time of the
23 commission of the offense.

24 **Sec. 12.** The amendatory provisions of:

25 1. Sections 1 to 4, inclusive, and 9 of this act apply to offenses
26 committed on or after October 1, 2013.

27 2. Sections 5 to 8, inclusive, 10 and 11 of this act apply to
28 offenses committed before, on or after October 1, 2013.



