

SENATE BILL NO. 180—COMMITTEE ON JUDICIARY  
(ON BEHALF OF DISTRICT ATTORNEYS ASSOCIATION)

FEBRUARY 15, 2001

Referred to Committee on Judiciary

SUMMARY—Prohibits suspension of sentence or granting of probation to persons convicted of certain sexual offenses involving victims who are minors. (BDR 14-467)

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

~

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

AN ACT relating to crimes; prohibiting the suspension of sentence or granting of probation to persons convicted of certain sexual offenses involving victims who are minors; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 176A.100 is hereby amended to read as follows:  
2     176A.100 1. Except as otherwise provided in this section and NRS  
3     176A.110 and 176A.120, if a person is found guilty in a district court upon  
4     verdict or plea of:  
5     (a) Murder of the first or second degree, kidnapping in the first degree,  
6     sexual assault, attempted sexual assault of a child who is less than 16 years  
7     of age, *a violation of NRS 200.710, 200.720, subparagraph (1) of*  
8     *paragraph (a) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450,*  
9     an offense for which the suspension of sentence or the granting of  
10    probation is expressly forbidden, or if the person is found to be a habitual  
11    criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant  
12    to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court  
13    shall not suspend the execution of the sentence imposed or grant probation  
14    to the person.  
15    (b) A category E felony, except as otherwise provided in this paragraph,  
16    the court shall suspend the execution of the sentence imposed and grant  
17    probation to the person. The court may, as it deems advisable, decide not to  
18    suspend the execution of the sentence imposed and grant probation to the  
19    person if, at the time the crime was committed, the person:



\* S B 1 8 0 \*

1 (1) Was serving a term of probation, whether in this state or  
2 elsewhere, for a felony conviction;

3 (2) Had previously had his probation revoked, whether in this state or  
4 elsewhere, for a felony conviction; or

5 (3) Had previously been two times convicted, whether in this state or  
6 elsewhere, of a crime that under the laws of the situs of the crime or of this  
7 state would amount to a felony.

8 If the person denies the existence of a previous conviction, the court shall  
9 determine the issue of the previous conviction after hearing all relevant  
10 evidence presented on the issue by the prosecution and the person. At such  
11 a hearing, the person may not challenge the validity of a previous  
12 conviction. For the purposes of this paragraph, a certified copy of a felony  
13 conviction is prima facie evidence of conviction of a prior felony.

14 (c) Another felony, a gross misdemeanor or a misdemeanor, the court  
15 may suspend the execution of the sentence imposed and grant probation as  
16 the court deems advisable.

17 2. In determining whether to grant probation to a person, the court  
18 shall not consider whether the person has the financial ability to participate  
19 in a program of probation secured by a surety bond established pursuant to  
20 NRS 176A.300 to 176A.370, inclusive.

21 3. The court shall consider the standards adopted pursuant to NRS  
22 213.10988 and the recommendation of the chief parole and probation  
23 officer, if any, in determining whether to grant probation to a person.

24 4. If the court determines that a person is otherwise eligible for  
25 probation but requires more supervision than would normally be provided  
26 to a person granted probation, the court may, in lieu of sentencing him to a  
27 term of imprisonment, grant him probation pursuant to the program of  
28 intensive supervision established pursuant to NRS 176A.440.

29 5. Except as otherwise provided in this subsection, if a person is  
30 convicted of a felony and the division is required to make a presentence  
31 investigation and report to the court pursuant to NRS 176.135, the court  
32 shall not grant probation to the person until the court receives the report of  
33 the presentence investigation from the chief parole and probation officer.  
34 The chief parole and probation officer shall submit the report of the  
35 presentence investigation to the court not later than 45 days after receiving  
36 a request for a presentence investigation from the county clerk. If the report  
37 of the presentence investigation is not submitted by the chief parole and  
38 probation officer within 45 days, the court may grant probation without the  
39 report.

40 6. If the court determines that a person is otherwise eligible for  
41 probation, the court shall, when determining the conditions of that  
42 probation, consider the imposition of such conditions as would facilitate  
43 timely payments by the person of his obligation, if any, for the support of a  
44 child and the payment of any such obligation which is in arrears.

45 **Sec. 2.** NRS 176A.110 is hereby amended to read as follows:

46 176A.110 1. The court shall not grant probation to or suspend the  
47 sentence of a person convicted of an offense listed in subsection 3 unless a  
48 psychologist licensed to practice in this state or a psychiatrist licensed to



\* S B 1 8 0 \*

1 practice medicine in this state certifies that the person is not a menace to  
2 the health, safety or morals of others.

3 2. This section does not create a right in any person to be certified or  
4 continue to be certified, and no person may bring a cause of action against  
5 the state, its political subdivisions, agencies, boards, commissions,  
6 departments, officers or employees for not certifying or refusing to  
7 consider a person for certification pursuant to this section.

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

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

12 (b) Statutory sexual seduction pursuant to NRS 200.368 ~~or an~~ *or an*  
13 *attempt to commit such an offense.*

14 (c) Battery with intent to commit sexual assault pursuant to NRS  
15 200.400 ~~or an attempt to commit such an offense.~~

16 (d) Abuse or neglect of a child pursuant to NRS 200.508 ~~or an~~ *or an*  
17 *attempt to commit such an offense.*

18 (e) *An attempt to commit an offense involving pornography and a*  
19 *minor pursuant to NRS 200.710 or 200.720.*

20 (f) An offense involving pornography and a minor pursuant to NRS  
21 ~~200.710 to 200.730, inclusive.~~

22 ~~or 200.725 or 200.730 or an attempt to commit such an offense.~~

23 (g) Incest pursuant to NRS 201.180 ~~or~~

24 ~~or an attempt to commit such an offense.~~

25 (h) Solicitation of a minor to engage in acts constituting the infamous  
26 crime against nature pursuant to *subparagraph (2) of paragraph (a) of*  
27 *subsection 1 of NRS 201.195 or paragraph (b) of subsection 1 of* NRS  
28 201.195 ~~or~~

29 ~~or an attempt to commit such an offense.~~

30 (i) *Attempted solicitation of a minor to engage in acts constituting the*  
31 *infamous crime against nature pursuant to subparagraph (1) of*  
32 *paragraph (a) of subsection 1 of NRS 201.195.*

33 (j) Open or gross lewdness pursuant to NRS 201.210 ~~or~~

34 ~~or an attempt to commit such an offense.~~

35 (k) Indecent or obscene exposure pursuant to NRS 201.220 ~~or~~

36 ~~or an attempt to commit such an offense.~~

37 (l) *Attempted lewdness* with a child pursuant to NRS 201.230.

38 ~~Sexual~~

39 (m) *Attempted sexual* penetration of a dead human body pursuant to  
40 NRS 201.450.

41 ~~or~~ (n) A violation of NRS 207.180 ~~or~~

42 ~~or an attempt to commit such an offense. Listed in paragraphs~~  
43 ~~(b) to (l), inclusive.~~

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

46 **Sec. 3.** The amendatory provisions of this act do not apply to offenses  
47 committed before October 1, 2001.

