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SECOND REPRINT

EXEMPT

S.B. 241

SENATE BILL NO. 241—COMMITTEE ON JUDICIARY

(ON BEHALF OF LEGISLATIVE COMMISSION'S
AUDIT SUBCOMMITTEE)

FEBRUARY 26, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to determination of whether certain offenders constitute menace to health, safety or morals of others. (BDR 16-435)

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 offenders; revising the provisions relating to certification panels that must determine whether certain prisoners who are eligible for parole constitute a menace to the health, safety or morals of others; requiring the department of prisons to administer such panels and the process of certification; revising the qualifications for certain members of such panels; revising the provisions relating to the determination of whether certain offenders who are eligible for probation constitute a menace to the health, safety or morals of others; making appropriations; 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 213.1214 is hereby amended to read as follows:
2 213.1214 1. The board shall not release on parole a prisoner
3 convicted of an offense listed in subsection ~~15~~ 7 unless a *certification*
4 panel ~~consisting of~~ *certifies that the prisoner was under observation*
5 *while confined in an institution of the department of prisons and does*
6 *not represent a high risk to reoffend based upon a currently accepted*
7 *standard of assessment.*
8 2. *The department of prisons shall administer each certification*
9 *panel and the process of certification. The director of the department of*
10 *prisons shall adopt regulations necessary to carry out the provisions of*
11 *this section. The regulations must include, without limitation, policies*
12 *and procedures for:*
13 (a) *Documenting that a prisoner was under observation while*
14 *confined in an institution of the department of prisons;*
15 (b) *Selecting a chairman for each certification panel;*



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- 1 (c) Conducting certification hearings;
2 (d) Ensuring compliance with the provisions of chapter 241 of NRS;
3 and
4 (e) Ensuring that the process for the evaluation of prisoners is
5 consistent.
- 6 3. Each certification panel must consist of:
- 7 (a) The administrator of the division of mental health and
8 developmental services of the department of human resources, or his
9 designee ~~†~~ who must be a psychologist licensed to practice in this state
10 or a psychiatrist licensed to practice medicine in this state;
11 (b) The director of the department of prisons, or his designee ~~†; and~~
12 who must be a psychologist licensed to practice in this state or a
13 psychiatrist licensed to practice medicine in this state; and
14 (c) A person selected by the director of the department of prisons who
15 must be a psychologist employed by the department of prisons and
16 licensed to practice in this state or a psychiatrist employed by the
17 department of prisons and licensed to practice medicine in this
18 state. ~~†~~
19 ~~certifies that the prisoner was under observation while confined in an~~
20 ~~institution of the department of prisons and is not a menace to the health,~~
21 ~~safety or morals of others.~~
22 ~~—2.†~~ 4. A prisoner who has been certified pursuant to subsection 1 and
23 who returns for any reason to the custody of the department of prisons may
24 not be paroled unless a certification panel recertifies him in the manner set
25 forth in subsection 1.
- 26 ~~†3.†~~ 5. The certification panel may revoke the certification of a
27 prisoner certified pursuant to subsection 1 at any time.
- 28 ~~†4.†~~ 6. This section does not create a right in any prisoner to be
29 certified or to continue to be certified. No prisoner may bring a cause of
30 action against the state, its political subdivisions, or the agencies, boards,
31 commissions, departments, officers or employees of the state or its
32 political subdivisions for not certifying a prisoner pursuant to this section
33 or for refusing to place a prisoner before a certification panel for
34 certification pursuant to this section.
- 35 ~~†5.†~~ 7. The provisions of this section apply to a prisoner convicted of
36 any of the following offenses:
- 37 (a) Sexual assault pursuant to NRS 200.366.
38 (b) Statutory sexual seduction pursuant to NRS 200.368.
39 (c) Battery with intent to commit sexual assault pursuant to
40 NRS 200.400.
41 (d) Abuse or neglect of a child pursuant to NRS 200.508.
42 (e) An offense involving pornography and a minor pursuant to
43 NRS 200.710 to 200.730, inclusive.
44 (f) Incest pursuant to NRS 201.180.
45 (g) Solicitation of a minor to engage in acts constituting the infamous
46 crime against nature pursuant to NRS 201.195.
47 (h) Open or gross lewdness pursuant to NRS 201.210.
48 (i) Indecent or obscene exposure pursuant to NRS 201.220.
49 (j) Lewdness with a child pursuant to NRS 201.230.



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1 (k) Sexual penetration of a dead human body pursuant to NRS 201.450.
2 (l) An attempt to commit an offense listed in paragraphs (a) to ~~+(+)~~ (k),
3 inclusive.

4 (m) Coercion or attempted coercion that is determined to be sexually
5 motivated pursuant to NRS 207.193.

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

7 176A.110 1. The court shall not grant probation to or suspend the
8 sentence of a person convicted of an offense listed in subsection 3 unless a
9 psychologist licensed to practice in this state or a psychiatrist licensed to
10 practice medicine in this state certifies that the person ~~is not a menace to~~
11 ~~the health, safety or morals of others.~~ *does not represent a high risk to*
12 *reoffend based upon a currently accepted standard of assessment.*

13 2. This section does not create a right in any person to be certified or *to*
14 continue to be certified, and no person may bring a cause of action against
15 the state, its political subdivisions, *or the* agencies, boards, commissions,
16 departments, officers or employees *of the state or its political subdivisions*
17 for not certifying *a person pursuant to this section* or *for* refusing to
18 consider a person for certification pursuant to this section.

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

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

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

24 (c) Battery with intent to commit sexual assault pursuant to
25 NRS 200.400.

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

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

29 (f) Incest pursuant to NRS 201.180.

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

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

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

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

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

36 (l) A violation of NRS 207.180.

37 (m) An attempt to commit an offense listed in paragraphs (b) to (l),
38 inclusive.

39 (n) Coercion or attempted coercion that is determined to be sexually
40 motivated pursuant to NRS 207.193.

41 **Sec. 3.** 1. There is hereby appropriated from the state general fund
42 to the department of prisons to carry out the provisions of this act:

43 For the fiscal year 2001-2002..... \$12,860
44 For the fiscal year 2002-2003..... \$12,860

45 2. There is hereby appropriated from the state general fund to the
46 division of mental health and developmental services of the department of
47 human resources to carry out the provisions of this act:

48 For the fiscal year 2001-2002..... \$9,051
49 For the fiscal year 2002-2003..... \$9,051



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- 1 3. Any balance of the sums appropriated by subsections 1 and 2
2 remaining at the end of the respective fiscal years must not be committed
3 for expenditure after June 30 of the respective fiscal years and reverts to
4 the state general fund as soon as all payments of money committed have
5 been made.
6 **Sec. 4.** This act becomes effective on July 1, 2001.

