

SENATE BILL NO. 546—COMMITTEE ON JUDICIARY

(ON BEHALF OF OFFICE OF THE ATTORNEY GENERAL)

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Revises penalties for second or subsequent offense of abuse or neglect of child. (BDR 15-471)

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; revising the penalties for a second or subsequent offense of abuse or neglect of a child; providing a penalty; 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 200.359 is hereby amended to read as follows:  
2     200.359 1. A person having a limited right of custody to a child by  
3     operation of law or pursuant to an order, judgment or decree of any court,  
4     including a judgment or decree which grants another person rights to  
5     custody or visitation of the child, or any parent having no right of custody  
6     to the child, who:  
7         (a) In violation of an order, judgment or decree of any court willfully  
8     detains, conceals or removes the child from a parent, guardian or other  
9     person having lawful custody or a right of visitation of the child; or  
10        (b) In the case of an order, judgment or decree of any court that does not  
11     specify when the right to physical custody or visitation is to be exercised,  
12     removes the child from the jurisdiction of the court without the consent of  
13     either the court or all persons who have the right to custody or  
14     visitation,  
15     is guilty of a category D felony and shall be punished as provided in NRS  
16     193.130.  
17     2. A parent who has joint legal custody of a child pursuant to NRS  
18     125.465 shall not willfully conceal or remove the child from the custody of  
19     the other parent with the specific intent to deprive the other parent of the



1 parent and child relationship. A person who violates this subsection shall  
2 be punished as provided in subsection 1.

3 3. If the mother of a child has primary physical custody pursuant to  
4 subsection 2 of NRS 126.031, the father of the child shall not willfully  
5 conceal or remove the child from the physical custody of the mother. If the  
6 father of a child has primary physical custody pursuant to subsection 2 of  
7 NRS 126.031, the mother of the child shall not willfully conceal or remove  
8 the child from the physical custody of the father. A person who violates  
9 this subsection shall be punished as provided in subsection 1.

10 4. Before an arrest warrant may be issued for a violation of this  
11 section, the court must find that:

12 (a) This is the home state of the child, as defined in subsection 5 of NRS  
13 125A.040; and

14 (b) There is cause to believe that the entry of a court order in a civil  
15 proceeding brought pursuant to chapter 125, 125A or 125C of NRS will  
16 not be effective to enforce the rights of the parties and would not be in the  
17 best interests of the child.

18 5. Upon conviction for a violation of this section, the court shall order  
19 the defendant to pay restitution for any expenses incurred in locating or  
20 recovering the child.

21 6. The prosecuting attorney may recommend to the judge that the  
22 defendant be sentenced as for a misdemeanor and the judge may impose  
23 such a sentence if he finds that:

24 (a) The defendant has no prior conviction for this offense and the child  
25 has suffered no substantial harm as a result of the offense; or

26 (b) The interests of justice require that the defendant be punished as for  
27 a misdemeanor.

28 7. A person who aids or abets any other person to violate this section  
29 shall be punished as provided in subsection 1.

30 8. This section does not apply to a person who detains, conceals or  
31 removes a child to protect the child from the imminent danger of abuse or  
32 neglect or to protect himself from imminent physical harm, and reported  
33 the detention, concealment or removal to a law enforcement agency or an  
34 agency which provides protective services within 24 hours after detaining,  
35 concealing or removing the child, or as soon as the circumstances allowed.  
36 As used in this subsection:

37 (a) "Abuse or neglect" has the meaning ascribed to it in paragraph (a) of  
38 subsection ~~3~~ 4 of NRS 200.508.

39 (b) "Agency which provides protective services" has the meaning  
40 ascribed to it in NRS 432B.030.

41 **Sec. 2.** NRS 200.508 is hereby amended to read as follows:

42 200.508 1. A person who:

43 (a) Willfully causes a child who is less than 18 years of age to suffer  
44 unjustifiable physical pain or mental suffering as a result of abuse or  
45 neglect or to be placed in a situation where the child may suffer physical  
46 pain or mental suffering as the result of abuse or neglect; or

47 (b) Is responsible for the safety or welfare of a child and who permits or  
48 allows that child to suffer unjustifiable physical pain or mental suffering as  
49 a result of abuse or neglect or to be placed in a situation where the child



1 may suffer physical pain or mental suffering as the result of abuse or  
2 neglect,  
3 is guilty of a gross misdemeanor unless a more severe penalty is prescribed  
4 by law for an act or omission which brings about the abuse, neglect or  
5 danger.

6 2. *A person who violates any provision of subsection 1 who has*  
7 *previously been convicted of a violation of this section or of a violation of*  
8 *the law of any other jurisdiction that prohibits the same or similar*  
9 *conduct is guilty of a category C felony and shall be punished as*  
10 *provided in NRS 193.130 unless a more severe penalty is prescribed by*  
11 *law for an act or omission which brings about the abuse, neglect or*  
12 *danger.*

13 3. A person who violates any provision of subsection 1, if substantial  
14 bodily or mental harm results to the child:

15 (a) If the child is less than 14 years of age and the harm is the result of  
16 sexual abuse or exploitation, is guilty of a category A felony and shall be  
17 punished by imprisonment in the state prison for life with the possibility of  
18 parole, with eligibility for parole beginning when a minimum of 10 years  
19 has been served; or

20 (b) In all other such cases to which paragraph (a) does not apply, is  
21 guilty of a category B felony and shall be punished by imprisonment in the  
22 state prison for a minimum term of not less than 2 years and a maximum  
23 term of not more than 20 years.

24 ~~3-1~~ 4. As used in this section:

25 (a) "Abuse or neglect" means physical or mental injury of a  
26 nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment  
27 or maltreatment of a child under the age of 18 years, as set forth in  
28 paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and  
29 432B.150, under circumstances which indicate that the child's health or  
30 welfare is harmed or threatened with harm.

31 (b) "Allow" means to do nothing to prevent or stop the abuse or neglect  
32 of a child in circumstances where the person knows or has reason to know  
33 that the child is abused or neglected.

34 (c) "Permit" means permission that a reasonable person would not grant  
35 and which amounts to a neglect of responsibility attending the care,  
36 custody and control of a minor child.

37 (d) "Physical injury" means:

38 (1) Permanent or temporary disfigurement; or

39 (2) Impairment of any bodily function or organ of the body.

40 (e) "Substantial mental harm" means an injury to the intellectual or  
41 psychological capacity or the emotional condition of a child as evidenced  
42 by an observable and substantial impairment of the ability of the child to  
43 function within his normal range of performance or behavior.

44 **Sec. 3.** NRS 207.012 is hereby amended to read as follows:

45 207.012 1. A person who:

46 (a) Has been convicted in this state of a felony listed in subsection 2;  
47 and

48 (b) Before the commission of that felony, was twice convicted of any  
49 crime which under the laws of the situs of the crime or of this state would



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1 be a felony listed in subsection 2, whether the prior convictions occurred in  
2 this state or elsewhere,  
3 is a habitual felon and shall be punished for a category A felony by  
4 imprisonment in the state prison:

- 5 (1) For life without the possibility of parole;  
6 (2) For life with the possibility of parole, with eligibility for parole  
7 beginning when a minimum of 10 years has been served; or  
8 (3) For a definite term of 25 years, with eligibility for parole  
9 beginning when a minimum of 10 years has been served.

10 2. The district attorney shall include a count under this section in any  
11 information or shall file a notice of habitual felon if an indictment is found,  
12 if each prior conviction and the alleged offense committed by the accused  
13 constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1  
14 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.320, 200.330,  
15 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400,  
16 NRS 200.410, subsection 3 of NRS 200.450, subsection 4 of NRS 200.460,  
17 NRS 200.465, subsection 2 **or 3** of NRS 200.508, NRS 200.710, 200.720,  
18 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS 202.780,  
19 paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS  
20 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS  
21 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS  
22 212.090, NRS 453.333, 484.219 or 484.3795.

23 3. The trial judge may not dismiss a count under this section that is  
24 included in an indictment or information.

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

26 178.5698 1. The prosecuting attorney, sheriff or chief of police shall,  
27 upon the written request of a victim or witness, inform him:

- 28 (a) When the defendant is released from custody at any time before or  
29 during the trial;  
30 (b) If the defendant is so released, the amount of bail required, if any;  
31 and  
32 (c) Of the final disposition of the criminal case in which he was directly  
33 involved.

34 2. If an offender is convicted of a sexual offense or an offense  
35 involving the use or threatened use of force or violence against the victim,  
36 the court shall provide:

- 37 (a) To each witness, documentation that includes:  
38 (1) A form advising the witness of the right to be notified pursuant to  
39 subsection 4;  
40 (2) The form that the witness must use to request notification; and  
41 (3) The form or procedure that the witness must use to provide a  
42 change of address after a request for notification has been submitted.  
43 (b) To each person listed in subsection 3, documentation that includes:  
44 (1) A form advising the person of the right to be notified pursuant to  
45 subsection 4 or 5 and NRS 176.015, 176A.630, 209.392, 209.3925,  
46 209.521, 213.010, 213.040, 213.095 and 213.130;  
47 (2) The forms that the person must use to request notification; and  
48 (3) The forms or procedures that the person must use to provide a  
49 change of address after a request for notification has been submitted.



- 1     3. The following persons are entitled to receive documentation  
2 pursuant to paragraph (b) of subsection 2:  
3     (a) A person against whom the offense is committed.  
4     (b) A person who is injured as a direct result of the commission of the  
5 offense.  
6     (c) If a person listed in paragraph (a) or (b) is under the age of 18 years,  
7 each parent or guardian who is not the offender.  
8     (d) Each surviving spouse, parent and child of a person who is killed as  
9 a direct result of the commission of the offense.  
10    (e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the  
11 relative requests in writing to be provided with the documentation.  
12    4. Except as otherwise provided in subsection 5, if the offense was a  
13 felony and the offender is imprisoned, the warden of the prison shall, if the  
14 victim or witness so requests in writing and provides his current address,  
15 notify him at that address when the offender is released from the prison.  
16    5. If the offender was convicted of a violation of subsection 3 of NRS  
17 200.366 or a violation of subsection 2 *or* 3 of NRS 200.508, the warden of  
18 the prison shall notify:  
19     (a) The immediate family of the victim if the immediate family provides  
20 their current address;  
21     (b) Any member of the victim's family related within the third degree of  
22 consanguinity, if the member of the victim's family so requests in writing  
23 and provides his current address; and  
24     (c) The victim, if he will be 18 years of age or older at the time of the  
25 release and has provided his current address,  
26 before the offender is released from prison.  
27    6. The warden must not be held responsible for any injury proximately  
28 caused by his failure to give any notice required pursuant to this section if  
29 no address was provided to him or if the address provided is inaccurate or  
30 not current.  
31    7. As used in this section:  
32     (a) "Immediate family" means any adult relative of the victim living in  
33 the victim's household.  
34     (b) "Sexual offense" means:  
35        (1) Sexual assault pursuant to NRS 200.366;  
36        (2) Statutory sexual seduction pursuant to NRS 200.368;  
37        (3) Battery with intent to commit sexual assault pursuant to NRS  
38 200.400;  
39        (4) An offense involving pornography and a minor pursuant to NRS  
40 200.710 to 200.730, inclusive;  
41        (5) Incest pursuant to NRS 201.180;  
42        (6) Solicitation of a minor to engage in acts constituting the infamous  
43 crime against nature pursuant to NRS 201.195;  
44        (7) Open or gross lewdness pursuant to NRS 201.210;  
45        (8) Indecent or obscene exposure pursuant to NRS 201.220;  
46        (9) Lewdness with a child pursuant to NRS 201.230;  
47        (10) Sexual penetration of a dead human body pursuant to NRS  
48 201.450;  
49        (11) Annoyance or molestation of a minor pursuant to NRS 207.260;



1 (12) An offense that, pursuant to a specific statute, is determined to  
2 be sexually motivated; or  
3 (13) An attempt to commit an offense listed in this paragraph.  
4 **Sec. 5.** NRS 213.1255 is hereby amended to read as follows:  
5 213.1255 1. In addition to any conditions of parole required to be  
6 imposed pursuant to NRS 213.1245, as a condition of releasing on parole a  
7 prisoner who was convicted of committing an offense listed in subsection 2  
8 against a child under the age of 14 years, the board shall, when appropriate:  
9 (a) Require the parolee to participate in psychological counseling;  
10 (b) Prohibit the parolee from being alone with a child unless another  
11 adult who has never been convicted of a sexual offense is present; and  
12 (c) Prohibit the parolee from being on or near the grounds of any place  
13 that is primarily designed for use by or for children, including, without  
14 limitation, a public or private school, a center or facility that provides day  
15 care services, a video arcade and an amusement park.  
16 2. The provisions of subsection 1 apply to a prisoner who was  
17 convicted of:  
18 (a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS  
19 200.366;  
20 (b) Abuse or neglect of a child pursuant to paragraph (a) of subsection  
21 ~~2~~ 3 of NRS 200.508;  
22 (c) An offense punishable pursuant to subsection 2 of NRS 200.750;  
23 (d) Solicitation of a minor to engage in acts constituting the infamous  
24 crime against nature pursuant to subparagraph (1) of paragraph (a) of  
25 subsection 1 of NRS 201.195;  
26 (e) Lewdness with a child pursuant to NRS 201.230; or  
27 (f) Any combination of the crimes listed in paragraphs (a) to (e),  
28 inclusive.  
29 **Sec. 6.** The amendatory provisions of this act do not apply to offenses  
30 committed before October 1, 2001.

