

Senate Bill No. 546—Committee on Judiciary

CHAPTER.....

AN ACT relating to crimes; revising the penalties for abuse or neglect of a child; providing penalties; and providing other matters properly relating thereto.

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

Section 1. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who ~~is~~

~~—(a) Willfully~~ *willfully* causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect ~~is or~~

~~—(b) Is~~ :

(a) If substantial bodily or mental harm results to the child:

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

(2) In all other such cases to which subparagraph (1) does not apply, 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 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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 a maximum term of not more than 6 years; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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 15 years,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect ~~is~~

~~is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for an act or omission which brings about the abuse, neglect or danger.~~

~~—2. A person who violates any provision of subsection 1, if~~ :

(a) If substantial bodily or mental harm results to the child:

~~[(a)]~~ (1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

~~[(b)]~~ (2) In all other such cases to which ~~paragraph (a)]~~ *subparagraph (1)* does not apply, 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 20 years ~~[(1)]~~ ; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130, unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. As used in this section:

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

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

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

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

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

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

Sec. 2. NRS 207.012 is hereby amended to read as follows:

207.012 1. A person who:

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

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this state would be a felony listed in subsection 2, whether the prior convictions occurred in this state or elsewhere, is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

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

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

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

Sec. 3. NRS 178.5698 is hereby amended to read as follows:

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

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

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

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

3. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 2:

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

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

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

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

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

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

5. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of *subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2* of NRS 200.508, the warden of the prison shall notify:

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

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

(c) The victim, if he will be 18 years of age or older at the time of the release and has provided his current address, before the offender is released from prison.

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

7. As used in this section:

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

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

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

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

(5) Incest pursuant to NRS 201.180;

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

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

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

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

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

(11) Annoyance or molestation of a minor pursuant to NRS 207.260;

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

(13) An attempt to commit an offense listed in this paragraph.

Sec. 4. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. In addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 2 against a child under the age of 14 years, the board shall, when appropriate:

- (a) Require the parolee to participate in psychological counseling;
- (b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and
- (c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.

2. The provisions of subsection 1 apply to a prisoner who was convicted of:

- (a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;
- (b) Abuse or neglect of a child pursuant to *subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a)* of subsection 2 of NRS 200.508;
- (c) An offense punishable pursuant to subsection 2 of NRS 200.750;
- (d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;
- (e) Lewdness with a child pursuant to NRS 201.230; or
- (f) Any combination of the crimes listed in paragraphs (a) to (e), inclusive.

Sec. 5. 1. Except as otherwise provided in subsection 2, the amendatory provisions of this act do not apply to offenses committed before October 1, 2001.

2. The amendatory provisions of this act apply to offenses committed before October 1, 2001, for the purposes of determining whether a person is subject to the provisions of subparagraph (2) of paragraph (b) of subsection 1 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, as amended by this act.