

CHAPTER.....

AN ACT relating to crimes; limiting the fee that may be charged by a provider of Internet service for providing information pursuant to certain subpoenas; revising the provision relating to using technology to lure children; providing that the crime of using technology to lure a child constitutes immoral conduct for the purposes of certain provisions related to educational personnel; providing that certain licensed educational employees forfeit their rights of employment if convicted of such a crime; 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 193.340 is hereby amended to read as follows:

193.340 1. A provider of Internet service who violates the provisions of 18 U.S.C. § 2703 ~~[, as that section existed on June 13, 2001,]~~ is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.

2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this state, the head of any organized police department of any municipality in this state, the head of any department of this state engaged in the enforcement of any criminal law of this state and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service, ~~[that is punishable as a felony,]~~ issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 ~~[, as that section existed on June 13, 2001,]~~ to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703. ~~[, as that section existed on June 13, 2001,]~~

3. *If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.*

4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

~~[4-]~~ 5. As used in this section, “provider of Internet service” has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.

Sec. 2. NRS 201.265 is hereby amended to read as follows:

201.265 Except as otherwise provided in NRS 200.720 and 201.2655, *and unless a greater penalty is provided pursuant to NRS 201.560*, a person is guilty of a misdemeanor if the person knowingly:

1. Distributes or causes to be distributed to a minor material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.

2. Exhibits for distribution to an adult in such a manner or location as to allow a minor to view or to have access to examine material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.

3. Sells to a minor an admission ticket or pass for or otherwise admits a minor for monetary consideration to any presentation of material that is harmful to minors, unless the minor is accompanied by his parent, guardian or spouse.

4. Misrepresents that he is the parent, guardian or spouse of a minor for the purpose of:

(a) Distributing to the minor material that is harmful to minors; or

(b) Obtaining admission of the minor to any presentation of material that is harmful to minors.

5. Misrepresents his age as 18 or over for the purpose of obtaining:

(a) Material that is harmful to minors; or

(b) Admission to any presentation of material that is harmful to minors.

6. Sells or rents motion pictures which contain material that is harmful to minors on the premises of a business establishment open to minors, unless the person creates an area within the establishment for the placement of the motion pictures and any material that advertises the sale or rental of the motion pictures which:

(a) Prevents minors from observing the motion pictures or any material that advertises the sale or rental of the motion pictures; and

(b) Is labeled, in a prominent and conspicuous location, “Adults Only.”

Sec. 3. NRS 201.560 is hereby amended to read as follows:

201.560 1. Except as otherwise provided in subsection 2, a person shall not use a computer, system or network to knowingly contact or communicate with or attempt to contact or communicate with a child who is less than 16 years of age and who is at least 5 years younger than the person with the intent to persuade, lure or

transport the child away from his home or from any location known to his parent or guardian or other person legally responsible for the child to a place other than where the child is located, for any purpose:

(a) Without the express consent of the parent or guardian or other person legally responsible for the child; and

(b) With the intent to avoid the consent of the parent or guardian or other person legally responsible for the child.

2. The provisions of this section do not apply if the contact or communication is made or attempted with the intent to prevent imminent bodily, emotional or psychological harm to the child.

3. A person who violates or attempts to violate the provisions of this section:

(a) With the intent to engage in sexual conduct with the child or to cause the child to engage in sexual 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 10 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child with ~~{obscene}~~ material *that is harmful to minors* or requesting the child to provide the person with ~~{obscene material,}~~ *material that is harmful to minors*, is guilty of a category C felony and shall be punished as provided in NRS 193.130; or

(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) *"Harmful to minors" has the meaning ascribed to it in NRS 201.257.*

(c) "Material" means anything that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

~~{(e)}~~ (d) "Network" has the meaning ascribed to it in NRS 205.4745.

~~{(d) "Obscene" has the meaning ascribed to it in NRS 201.235.}~~

(e) "Sexual conduct" has the meaning ascribed to it in NRS 201.520.

(f) "System" has the meaning ascribed to it in NRS 205.476.

Sec. 4. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. “Board” means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. “Demotion” means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. “Immorality” means an act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, **201.560** or 207.260.

5. “Postprobationary employee” means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. “Probationary employee” means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. “Superintendent” means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. “Teacher” means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 5. NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee’s dismissal. The employee is entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with full compensation, plus interest.

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.200 to 179D.290, inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, ~~201.265~~ **or 201.560** forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive no more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

Sec. 6. This act becomes effective on July 1, 2003.