

SENATE BILL NO. 300—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning technological crimes. (BDR 15-438)

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; 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:

- 1 **Section 1.** NRS 193.340 is hereby amended to read as follows:
2 193.340 1. A provider of Internet service who violates the
3 provisions of 18 U.S.C. § 2703 ~~[, as that section existed on June 13,~~
4 ~~2001,]~~ is guilty of a misdemeanor and shall be punished by a fine of
5 not less than \$50 or more than \$500 for each violation.
6 2. In investigating criminal activity that involves or may
7 involve the use of a computer, the Attorney General, a district
8 attorney, the sheriff of any county in this state, the head of any
9 organized police department of any municipality in this state, the
10 head of any department of this state engaged in the enforcement of



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1 any criminal law of this state and any sheriff or chief of police of a
2 municipality may, if there is reasonable cause to believe that an
3 individual subscriber or customer of a provider of Internet service
4 has committed an offense through the use of the services of the
5 provider of Internet service , ~~{that is punishable as a felony.}~~ issue a
6 subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 ~~{,~~
7 ~~as that section existed on June 13, 2001.}~~ to compel the provider of
8 Internet service to provide information concerning the individual
9 subscriber or customer that the provider of Internet service is
10 required to disclose pursuant to 18 U.S.C. § 2703 . ~~{, as that section~~
11 ~~existed on June 13, 2001.}~~

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

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

21 ~~{4.}~~ 5. As used in this section, “provider of Internet service”
22 has the meaning ascribed to it in NRS 205.4758, but does not
23 include a public library when it is engaged in providing access to the
24 Internet.

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

26 201.265 Except as otherwise provided in NRS 200.720 and
27 201.2655, *and unless a greater penalty is provided pursuant to*
28 *NRS 201.560*, a person is guilty of a misdemeanor if the person
29 knowingly:

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

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

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

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

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



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

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

5 (a) Material that is harmful to minors; or

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

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

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

15 (b) Is labeled, in a prominent and conspicuous location, "Adults
16 Only."

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

18 201.560 1. Except as otherwise provided in subsection 2, a
19 person shall not use a computer, system or network to knowingly
20 contact or communicate with or attempt to contact or communicate
21 with a child who is less than 16 years of age and who is at least 5
22 years younger than the person with the intent to persuade, lure or
23 transport the child away from his home or from any location known
24 to his parent or guardian or other person legally responsible for the
25 child to a place other than where the child is located, for any
26 purpose:

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

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

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

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

36 (a) With the intent to engage in sexual conduct with the child or
37 to cause the child to engage in sexual conduct, is guilty of a
38 category B felony and shall be punished by imprisonment in the
39 state prison for a minimum term of not less than 1 year and a
40 maximum term of not more than 10 years and may be further
41 punished by a fine of not more than \$10,000;

42 (b) By providing the child with ~~obscene~~ material *that is*
43 *harmful to minors* or requesting the child to provide the person
44 with ~~obscene material,~~ *material that is harmful to minors*, is



1 guilty of a category C felony and shall be punished as provided in
2 NRS 193.130; or

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

5 4. As used in this section:

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

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

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

12 ~~[(e)]~~ (d) "Network" has the meaning ascribed to it in
13 NRS 205.4745.

14 ~~[(d)] "Obscene" has the meaning ascribed to it in NRS 201.235.]~~

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

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

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

19 391.311 As used in NRS 391.311 to 391.3197, inclusive,
20 unless the context otherwise requires:

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

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

27 3. "Demotion" means demotion of an administrator to a
28 position of lesser rank, responsibility or pay and does not include
29 transfer or reassignment for purposes of an administrative
30 reorganization.

31 4. "Immorality" means an act forbidden by NRS 200.366,
32 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220,
33 201.230, 201.265, **201.560** or 207.260.

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

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

39 7. "Superintendent" means the superintendent of a school
40 district or a person designated by the board or superintendent to act
41 as superintendent during the absence of the superintendent.

42 8. "Teacher" means a licensed employee the majority of whose
43 working time is devoted to the rendering of direct educational
44 service to pupils of a school district.



1 **Sec. 5.** NRS 391.314 is hereby amended to read as follows:
2 391.314 1. If a superintendent has reason to believe that
3 cause exists for the dismissal of a licensed employee and he is of the
4 opinion that the immediate suspension of the employee is necessary
5 in the best interests of the pupils in the district, the superintendent
6 may suspend the employee without notice and without a hearing.
7 Notwithstanding the provisions of NRS 391.312, a superintendent
8 may suspend a licensed employee who has been officially charged
9 but not yet convicted of a felony or a crime involving moral
10 turpitude or immorality. If the charge is dismissed or if the
11 employee is found not guilty, he must be reinstated with back pay,
12 plus interest, and normal seniority. The superintendent shall notify
13 the employee in writing of the suspension.
14 2. Within 5 days after a suspension becomes effective, the
15 superintendent shall begin proceedings pursuant to the provisions of
16 NRS 391.312 to 391.3196, inclusive, to effect the employee's
17 dismissal. The employee is entitled to continue to receive his salary
18 and other benefits after the suspension becomes effective until the
19 date on which the dismissal proceedings are commenced. The
20 superintendent may recommend that an employee who has been
21 charged with a felony or a crime involving immorality be dismissed
22 for another ground set forth in NRS 391.312.
23 3. If sufficient grounds for dismissal do not exist, the employee
24 must be reinstated with full compensation, plus interest.
25 4. A licensed employee who furnishes to the school district a
26 bond or other security which is acceptable to the board as a
27 guarantee that he will repay any amounts paid to him pursuant to
28 this subsection as salary during a period of suspension is entitled to
29 continue to receive his salary from the date on which the dismissal
30 proceedings are commenced until the decision of the board or the
31 report of the hearing officer, if the report is final and binding. The
32 board shall not unreasonably refuse to accept security other than a
33 bond. An employee who receives salary pursuant to this subsection
34 shall repay it if he is dismissed or not reemployed as a result of a
35 decision of the board or a report of a hearing officer.
36 5. A licensed employee who is convicted of a crime which
37 requires registration pursuant to NRS 179D.200 to 179D.290,
38 inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an
39 act forbidden by NRS 200.508, 201.190 , ~~or~~ 201.265 *or 201.560*
40 forfeits all rights of employment from the date of his arrest.
41 6. A licensed employee who is convicted of any crime and who
42 is sentenced to and serves any sentence of imprisonment forfeits all
43 rights of employment from the date of his arrest or the date on
44 which his employment terminated, whichever is later.



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

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

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

