

ASSEMBLY BILL NO. 274—ASSEMBLYWOMAN OHRENSCHALL

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning sex offenders and offenders convicted of crimes against children. (BDR 14-706)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 provisions concerning requirements for providing certain notices and information relating to a defendant who has been convicted of a crime against a child or a sexual offense; requiring the Department of Public Safety to establish and maintain a community notification website to provide certain information to the public concerning certain sex offenders; increasing penalties for a second or subsequent violation of certain requirements concerning registration and notification of offenders convicted of a crime against a child and sex offenders; 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:

- 1 **Section 1.** NRS 176.0926 is hereby amended to read as
2 follows:
3 176.0926 1. If a defendant is convicted of a crime against a
4 child, the court shall, ~~before imposing sentence:~~ *following the*
5 *imposition of a sentence:*



1 (a) Notify the Central Repository of the conviction of the
2 defendant, so the Central Repository may carry out the provisions
3 for registration of the defendant pursuant to NRS 179D.230.

4 (b) Inform the defendant of the requirements for registration,
5 including, but not limited to:

6 (1) The duty to register in this State during any period in
7 which he is a resident of this State or a nonresident who is a student
8 or worker within this State and the time within which he is required
9 to register pursuant to NRS 179D.240;

10 (2) The duty to register in any other jurisdiction during any
11 period in which he is a resident of the other jurisdiction or a
12 nonresident who is a student or worker within the other jurisdiction;

13 (3) If he moves from this State to another jurisdiction, the
14 duty to register with the appropriate law enforcement agency in the
15 other jurisdiction;

16 (4) The duty to notify the local law enforcement agency in
17 whose jurisdiction he formerly resided, in person or in writing, if he
18 changes the address at which he resides, including if he moves from
19 this State to another jurisdiction, or changes the primary address at
20 which he is a student or worker; and

21 (5) The duty to notify immediately the appropriate local law
22 enforcement agency if the defendant is, expects to be or becomes
23 enrolled as a student at an institution of higher education or changes
24 the date of commencement or termination of his enrollment at an
25 institution of higher education or if the defendant is, expects to be or
26 becomes a worker at an institution of higher education or changes
27 the date of commencement or termination of his work at an
28 institution of higher education.

29 (c) Require the defendant to read and sign a form confirming
30 that the requirements for registration have been explained to him.

31 2. The failure to provide the defendant with the information or
32 confirmation form required by paragraphs (b) and (c) of subsection
33 1 does not affect the duty of the defendant to register and to comply
34 with all other provisions for registration pursuant to NRS 179D.200
35 to 179D.290, inclusive.

36 **Sec. 2.** NRS 176.0927 is hereby amended to read as follows:

37 176.0927 1. If a defendant is convicted of a sexual offense,
38 the court shall, ~~before imposing sentence:~~ *following the*
39 *imposition of a sentence:*

40 (a) Notify the Central Repository of the conviction of the
41 defendant, so the Central Repository may carry out the provisions
42 for registration of the defendant pursuant to NRS 179D.450.

43 (b) Inform the defendant of the requirements for registration,
44 including, but not limited to:



(1) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.460;

(2) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(3) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(4) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form stating that the requirements for registration have been explained to him.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.350 to 179D.550, inclusive.

Sec. 3. Chapter 179B of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this act.

Sec. 4. *“Community notification website” means the website on the Internet established and maintained by the Department pursuant to NRS 179B.250.*

Sec. 5. *Except as otherwise authorized pursuant to specific statute, a person shall not use information obtained from the community notification website for any purpose related to any of the following:*

1. *Insurance, including health insurance.*
2. *Loans.*
3. *Credit.*
4. *Employment.*
5. *Education, scholarships or fellowships.*



1 6. *Housing or accommodations.*

2 7. *Benefits, privileges or services provided by any business*
3 *establishment.*

4 **Sec. 6.** 1. *Any person who uses information obtained from*
5 *the community notification website in violation of the provisions*
6 *of this section, NRS 179B.250 or section 5 of this act is liable:*

7 (a) *In a civil action brought by or on behalf of a person*
8 *injured by the violation, for damages, attorney's fees and costs*
9 *incurred as the result of the violation; and*

10 (b) *In a civil action brought in the name of the State of Nevada*
11 *by the Attorney General, for a civil penalty not to exceed \$25,000*
12 *and for the costs of the action, including investigative costs and*
13 *attorney's fees.*

14 2. *In addition to any civil liability provided pursuant to*
15 *subsection 1, if any person uses information obtained from the*
16 *community notification website to commit a crime punishable as:*

17 (a) *A misdemeanor, the person is guilty of a gross*
18 *misdemeanor.*

19 (b) *A gross misdemeanor or felony, the person is guilty of a*
20 *category C felony and shall be punished as provided in*
21 *NRS 193.130.*

22 **Sec. 7.** 1. *If there is reasonable cause to believe that a*
23 *person or group of persons has engaged in or is about to engage*
24 *in any act or practice, or any pattern of acts or practices, which*
25 *involves the use of information obtained from the community*
26 *notification website and which violates any provision of this*
27 *section, NRS 179B.250 or section 5 or 6 of this act, the Attorney*
28 *General may file an action for injunctive relief in the appropriate*
29 *district court to prevent the occurrence or continuance of that act*
30 *or practice or pattern of acts or practices.*

31 2. *An injunction pursuant to this section:*

32 (a) *May be issued without proof of actual damage sustained by*
33 *any person; and*

34 (b) *Does not preclude or affect the availability of any other*
35 *remedy, including, without limitation, the criminal prosecution of*
36 *a violator or the filing or maintenance of a civil action for*
37 *damages or a civil penalty pursuant to section 6 of this act.*

38 **Sec. 8.** NRS 179B.010 is hereby amended to read as follows:

39 179B.010 As used in this chapter, unless the context otherwise
40 requires, the words and terms defined in NRS 179B.020 to
41 179B.140, inclusive, *and section 4 of this act* have the meanings
42 ascribed to them in those sections.

43 **Sec. 9.** NRS 179B.100 is hereby amended to read as follows:

44 179B.100 "Requester" means a person who requests
45 information from the ~~[program.]~~ *community notification website.*



1 **Sec. 10.** NRS 179B.250 is hereby amended to read as follows:

2 179B.250 1. The Department shall ~~{, in a manner prescribed~~
3 ~~by the Director,}~~ establish *and maintain* within the Central
4 Repository a ~~{program}~~ *community notification website* to provide
5 the public with access to certain information contained in the
6 statewide registry ~~{. The program may include, but is not limited to,~~
7 ~~the use of a secure website on the Internet or other electronic means~~
8 ~~of communication to provide the public with access to certain~~
9 ~~information contained in the statewide registry if such information is~~
10 ~~made available and disclosed}~~ in accordance with the procedures set
11 forth in this section.

12 2. For each inquiry to the ~~{program,}~~ *community notification*
13 *website*, the requester must provide:

- 14 (a) The name of the subject of the search;
15 (b) Any alias of the subject of the search;
16 (c) The zip code of the residence, place of work or school of the
17 subject of the search; or
18 (d) Any other information concerning the identity or location of
19 the subject of the search that is deemed sufficient in the discretion of
20 the Department.

21 3. For each inquiry to the ~~{program,}~~ *community notification*
22 *website* made by the requester, the Central Repository shall:

23 (a) Explain the levels of notification that are assigned to sex
24 offenders pursuant to NRS 179D.730; and

25 (b) Explain that the Central Repository is prohibited by law
26 from disclosing information concerning certain offenders, even if
27 those offenders are listed in the statewide registry.

28 4. If an offender listed in the statewide registry matches the
29 information provided by the requester concerning the identity or
30 location of the subject of the search, the Central Repository:

31 (a) Shall disclose to the requester information concerning an
32 offender who is assigned a *Tier 2 or* Tier 3 level of notification.

33 (b) ~~{Except as otherwise provided in this paragraph, may, in the~~
34 ~~discretion of the Department, disclose to the requester information~~
35 ~~concerning an offender who is assigned a Tier 2 level of~~
36 ~~notification. The Central Repository shall not disclose to the~~
37 ~~requester information concerning an offender who is assigned a Tier~~
38 ~~2 level of notification if the offender:~~

39 ~~—— (1) Has been released from actual custody for 10 years or~~
40 ~~more; and~~

41 ~~—— (2) Has not been convicted of committing a sexual offense~~
42 ~~during the immediately preceding 10 years.~~

43 ~~—— (c)}~~ Shall not disclose to the requester information concerning
44 an offender who is assigned a Tier 1 level of notification.



5. After each inquiry to the ~~[program]~~ *community notification website* made by the requester, the Central Repository shall inform the requester that:

(a) No offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search;

(b) The search of the statewide registry has not produced information that is available to the public through the statewide registry;

(c) The requester needs to provide additional information concerning the identity or location of the subject of the search before the Central Repository may disclose the results of the search; or

(d) An offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search. If a search of the statewide registry results in a match pursuant to this paragraph, the Central Repository ~~is:~~

~~—— (1) Shall inform the requester of the name or any alias of the offender and the zip codes of the residence, work place and school of the offender.~~

~~—— (2) Shall inform the requester of each offense for which the offender was convicted, describing each offense in language that is understandable to the ordinary layperson, and the date and location of each conviction.~~

~~—— (3) Shall inform the requester of the age of the victim and offender at the time of each offense.~~

~~—— (4) May, through the use of a secure website on the Internet or other electronic means of communication, provide the requester with a photographic image of the offender if such an image is available.~~

~~—— (5) Shall] shall provide the requester with the following information:~~

(1) The name of the offender and all aliases that the offender has used or under which the offender has been known.

(2) A complete physical description of the offender.

(3) A current photograph of the offender.

(4) The year of birth of the offender.

(5) The complete address of any residence at which the offender resides.

(6) The number of the street block, but not the specific street number, of any location where the offender is currently:

(I) A student, as defined in NRS 179D.110; or

(II) A worker, as defined in NRS 179D.120.



(7) *The following information for each offense for which the offender has been convicted:*

(I) *The offense that was committed, including a citation to the specific statute that the offender violated.*

(II) *The court in which the offender was convicted.*

(III) *The name under which the offender was convicted.*

(IV) *The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender was committed for the offense.*

(V) *The city, township or county where the offense was committed.*

6. *If a search of the statewide registry results in a match pursuant to paragraph (d) of subsection 5, the Central Repository shall not provide the requester with any ~~other~~ information that is included in the record of registration for the offender ~~[-6-] other than the information required pursuant to paragraph (d) of subsection 5.~~*

7. For each inquiry to the ~~[program,]~~ *community notification website*, the Central Repository shall maintain a log of the information provided by the requester to the Central Repository and the information provided by the Central Repository to the requester.

~~[7-]~~ 8. A person may not use information obtained through the ~~[program]~~ *community notification website* as a substitute for information relating to the offenses listed in subsection 4 of NRS 179A.190 that must be provided by the Central Repository pursuant to NRS 179A.180 to 179A.240, inclusive, or another provision of law.

~~[8-]~~ 9. The provisions of this section do not prevent law enforcement officers, the Central Repository and its officers and employees, or any other person from:

(a) Accessing information in the statewide registry pursuant to NRS 179B.200;

(b) Carrying out any duty pursuant to chapter 179D of NRS; or

(c) Carrying out any duty pursuant to another provision of law.

Sec. 11. NRS 179B.300 is hereby amended to read as follows:

179B.300 1. Information in the statewide registry, *including information in the community notification website*, that is accessed or disclosed pursuant to the provisions of this chapter must not reveal the name of an individual victim of an offense.

2. The Central Repository and its officers and employees are immune from criminal or civil liability for an act or omission relating to information obtained, maintained or disclosed pursuant to the provisions of this chapter, including, but not limited to, an act or omission relating to:

(a) The accuracy of information in the statewide registry; or



(b) The disclosure of or the failure to disclose information in the statewide registry.

3. A law enforcement agency and its officers and employees are immune from criminal or civil liability for an act or omission relating to information obtained pursuant to the provisions of this chapter, including, but not limited to, an act or omission relating to:

(a) The accuracy of information obtained from the statewide registry; or

(b) The disclosure of or the failure to disclose information obtained from the statewide registry.

Sec. 12. NRS 179D.290 is hereby amended to read as follows:

179D.290 **1.** An offender convicted of a crime against a child who:

~~(1)~~ (a) Fails to register with a local law enforcement agency;

~~(2)~~ (b) Fails to notify the local law enforcement agency of a change of address;

~~(3)~~ (c) Provides false or misleading information to the Central Repository or a local law enforcement agency; or

~~(4)~~ (d) Otherwise violates the provisions of NRS 179D.200 to 179D.290, inclusive,

➤ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. *An offender convicted of a crime against a child who commits a second or subsequent violation of subsection 1 within 7 years after the first violation is guilty of a category C felony and shall be punished as provided in NRS 193.130. A court shall not grant probation to or suspend the sentence of a person convicted pursuant to this subsection.*

Sec. 13. NRS 179D.550 is hereby amended to read as follows:

179D.550 **1.** A sex offender who:

~~(1)~~ (a) Fails to register with a local law enforcement agency;

~~(2)~~ (b) Fails to notify the local law enforcement agency of a change of address;

~~(3)~~ (c) Provides false or misleading information to the Central Repository or a local law enforcement agency; or

~~(4)~~ (d) Otherwise violates the provisions of NRS 179D.350 to 179D.550, inclusive,

➤ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. *A sex offender who commits a second or subsequent violation of subsection 1 within 7 years after the first violation is guilty of a category C felony and shall be punished as provided in NRS 193.130. A court shall not grant probation to or suspend the sentence of a person convicted pursuant to this subsection.*



Sec. 14. NRS 179D.730 is hereby amended to read as follows:

179D.730 1. Except as otherwise provided in this section, the guidelines and procedures for community notification established by the Attorney General must provide for the following levels of notification, depending upon the risk of recidivism of the sex offender:

(a) If the risk of recidivism is low, the sex offender must be assigned a Tier 1 level of notification, and the law enforcement agency in whose jurisdiction the sex offender resides or is a student or worker shall notify other law enforcement agencies that are likely to encounter the sex offender.

(b) If the risk of recidivism is moderate, the sex offender must be assigned a Tier 2 level of notification, and the law enforcement agency in whose jurisdiction the sex offender resides or is a student or worker shall provide notification pursuant to paragraph (a) and shall notify schools and religious and youth organizations that are likely to encounter the sex offender.

(c) If the risk of recidivism is high, the sex offender must be assigned a Tier 3 level of notification, and the law enforcement agency in whose jurisdiction the sex offender resides or is a student or worker shall provide notification pursuant to paragraphs (a) and (b) and shall notify the public through means designed to reach members of the public who are likely to encounter the sex offender.

2. If the sex offender is assigned a Tier 2 or Tier 3 level of notification and the sex offender has committed a sexual offense against a person less than 18 years of age, the law enforcement agency in whose jurisdiction the sex offender resides or is a student or worker shall provide the appropriate notification for Tier 2 or Tier 3 and, in addition, shall notify:

(a) Motion picture theaters, other than adult motion picture theaters, which are likely to encounter the sex offender; and

(b) Businesses which are likely to encounter the sex offender and which primarily have children as customers or conduct events that primarily children attend. Notification pursuant to this subsection must include a copy of a photograph of the sex offender. As used in paragraph (a), "adult motion picture theater" has the meaning ascribed to it in NRS 278.0221.

3. ~~If the sex offender has been declared to be a sexually violent predator, the~~ A sex offender must be assigned a Tier 3 level of notification ~~if the sex offender has been:~~

(a) Declared to be a sexually violent predator;

(b) Convicted of three or more sexually violent offenses, and at least two of the offenses were brought and tried separately;



1 (c) *Convicted of two sexually violent offenses and one or more*
2 *nonsexually violent offenses, and at least two of the offenses were*
3 *brought and tried separately;*

4 (d) *Convicted of one sexually violent offense and two or more*
5 *nonsexually violent offenses, and at least two of the offenses were*
6 *brought and tried separately;*

7 (e) *Convicted of two sexually violent offenses, and both*
8 *offenses were brought and tried separately, and the sex offender*
9 *has been arrested on three or more separate occasions for*
10 *commission of a sexually violent offense, a nonsexually violent*
11 *offense or an associated offense; or*

12 (f) *Convicted of one sexually violent offense and one*
13 *nonsexually violent offense, and both offenses were brought and*
14 *tried separately, and the sex offender has been arrested on three or*
15 *more separate occasions for commission of a sexually violent*
16 *offense, a nonsexually violent offense or an associated offense.*

17 4. *The existence of the community notification website must*
18 *not be construed to affect, in any manner, the responsibility to*
19 *provide notification pursuant to this section.*

20 5. *As used in this section:*

21 (a) *“Associated offense” includes any of the following*
22 *offenses:*

23 (1) *Harassment pursuant to NRS 200.571.*

24 (2) *Stalking or aggravated stalking pursuant to*
25 *NRS 200.581.*

26 (3) *Any offense related to obscenity pursuant to NRS*
27 *201.235 to 201.254, inclusive.*

28 (4) *Any offense related to obscene, threatening or annoying*
29 *telephone calls pursuant to NRS 201.255.*

30 (5) *Any offense related to burglary or invasion of the home*
31 *pursuant to NRS 205.060 to 205.080, inclusive.*

32 (b) *“Nonsexually violent offense” means an offense that:*

33 (1) *Involves the use or threatened use of force or violence*
34 *against the victim; and*

35 (2) *Is not a sexual offense as defined pursuant to*
36 *NRS 179D.410.*

37 (c) *“Sexually violent offense” has the meaning ascribed to it in*
38 *NRS 179D.420.*

39 **Sec. 15.** NRS 179B.080 is hereby repealed.

40 **Sec. 16.** The Department of Public Safety shall, as
41 expeditiously as possible after July 1, 2005, but not later than
42 January 1, 2006, comply with the requirements for the community
43 notification website established pursuant to NRS 179B.250.

44 **Sec. 17.** This act becomes effective on July 1, 2005.



TEXT OF REPEALED SECTION

179B.080 “Program” defined. “Program” means the program established within the Central Repository pursuant to NRS 179B.250 to provide the public with access to certain information contained in the statewide registry.

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