

ASSEMBLY BILL NO. 405—ASSEMBLYMEN OHRENSCHALL,
BUCKLEY, ALLEN, GANSERT, MORTENSON, BEERS,
CHRISTENSEN, CLABORN, COBB, GRADY, HORNE,
KIRKPATRICK, PIERCE, SEGERBLOM AND WOMACK

MARCH 16, 2007

Referred to Select Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to provisions governing sex
offenders. (BDR 14-20)

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 sex offenders; revising the requirements of the court in determining whether to grant probation to certain offenders; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; prohibiting the misuse of information obtained from the community notification website; prohibiting a person from assisting a sex offender in eluding a law enforcement agency; revising provisions concerning the registration of sex offenders; revising the circumstances by which first degree murder may be aggravated; revising the penalty for lewdness with a child; revising the penalty for a violation of a condition imposed pursuant to the program of lifetime supervision of sex offenders; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 This bill is patterned in part after certain provisions of the Jessica Lunsford Act
- 2 (House Bill 1877, 2005 Florida Legislature) enacted by the Florida Legislature.
- 3 **Section 1** of this bill revises existing law by requiring a court to conduct a search of
- 4 a person's name in the statewide registry of sex offenders and offenders convicted



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5 of a crime against a child in determining whether to grant probation to that person.
6 (NRS 176A.100)

7 Existing law provides that a person may be liable in a civil action for the
8 misuse of information obtained from the community notification website. (NRS
9 179B.280) **Section 3** of this bill imposes a criminal penalty if a person obtains
10 information from the website to secure a payment from a sex offender or to alter
11 and misrepresent the information. **Section 4** of this bill makes it a felony for any
12 person to assist a sex offender in eluding a law enforcement agency.

13 Existing law sets forth certain registration requirements for sex offenders. (NRS
14 179D.240, 179D.260, 179D.460) **Sections 5, 6 and 7** of this bill require local law
15 enforcement agencies to forward information collected from sex offenders to the
16 Central Repository for Nevada Records of Criminal History within 2 working days
17 and also require sex offenders to provide additional registration information.
18 **Section 6** requires the Central Repository to mail verification forms to sex
19 offenders semiannually.

20 **Section 8** of this bill revises existing law by including on the list of aggravating
21 circumstances for first degree murder any circumstance in which the murder was
22 committed by a person previously convicted of certain sexual offenses against a
23 child under the age of 14 years. (NRS 200.033)

24 Under existing law, a person guilty of lewdness with a child under the age of 14
25 years is guilty of a category A felony and may be punished by imprisonment in the
26 state prison for life with the possibility of parole, with eligibility for parole
27 beginning when a minimum of 10 years has been served. (NRS 201.230) **Section 9**
28 of this bill provides that the existing penalty applies to a person guilty of lewdness
29 with a child who is 12 or 13 years of age while a person guilty of lewdness with
30 a child who is under the age of 12 years is guilty of a category A felony and may be
31 punished by imprisonment in the state prison for: (1) life with the possibility of
32 parole, with eligibility for parole beginning when a minimum of 25 years has been
33 served; or (2) life without the possibility of parole.

34 Under existing law, a sex offender who commits a violation of a condition of
35 his lifetime supervision is guilty of a misdemeanor for a minor violation or a
36 category B felony for a major violation. (NRS 213.1243) **Section 10** of this bill
37 eliminates the classification of violations and makes all such violations punishable
38 as a category B felony.

39 Existing law sets forth certain conditions to be imposed on sex offenders on
40 lifetime supervision or released on parole, probation or a suspended sentence. (NRS
41 176A.410, 213.1243, 213.1245, 213.1255) **Sections 2, 10 and 11** of this bill
42 prohibit such sex offenders from accepting employment or volunteer service that is
43 located anywhere that is designed primarily for use by or for children. **Sections 2,**
44 **10 and 12** of this bill also require such sex offenders who have been convicted of
45 certain sex offenses against a child under the age of 14 years and who have been
46 assigned a Tier 3 level of notification to be placed under a system of active
47 electronic monitoring and to pay any costs associated with their participation under
48 the system. **Sections 2, 10 and 12** further prohibit persons from removing or
49 disabling an electronic monitoring device without authorization.



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

Section 1. NRS 176A.100 is hereby amended to read as follows:

176A.100 1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, lewdness with a child pursuant to NRS 201.230, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation to the person. The court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time of sentencing, it is established that the person:

(1) Was serving a term of probation or was on parole at the time the crime was committed, whether in this State or elsewhere, for a felony conviction;

(2) Had previously had his probation or parole revoked, whether in this State or elsewhere, for a felony conviction;

(3) Had previously been assigned to a program of treatment and rehabilitation pursuant to NRS 453.580 and failed to successfully complete that program; or

(4) Had previously been two times convicted, whether in this State or elsewhere, of a crime that under the laws of the situs of the crime or of this State would amount to a felony.

➤ If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the purposes of this paragraph, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

(c) Another felony, a gross misdemeanor or a misdemeanor, the court may suspend the execution of the sentence imposed and grant probation as the court deems advisable.



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2. In determining whether to grant probation to a person, the court shall not consider whether the person has the financial ability to participate in a program of probation secured by a surety bond established pursuant to NRS 176A.300 to 176A.370, inclusive.

3. ~~[The]~~ *In determining whether to grant probation to a person, the* court shall ~~[consider]~~ ;

(a) *Consider* the standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any ~~[in determining whether to grant probation to a person.]~~ ; and

(b) *Conduct a search of the person's name in the statewide registry established pursuant to NRS 179B.200.*

4. If the court determines that a person is otherwise eligible for probation but requires more supervision than would normally be provided to a person granted probation, the court may, in lieu of sentencing him to a term of imprisonment, grant him probation pursuant to the Program of Intensive Supervision established pursuant to NRS 176A.440.

5. Except as otherwise provided in this subsection, if a person is convicted of a felony and the Division is required to make a presentence investigation and report to the court pursuant to NRS 176.135, the court shall not grant probation to the person until the court receives the report of the presentence investigation from the Chief Parole and Probation Officer. The Chief Parole and Probation Officer shall submit the report of the presentence investigation to the court not later than 45 days after receiving a request for a presentence investigation from the county clerk. If the report of the presentence investigation is not submitted by the Chief Parole and Probation Officer within 45 days, the court may grant probation without the report.

6. If the court determines that a person is otherwise eligible for probation, the court shall, when determining the conditions of that probation, consider the imposition of such conditions as would facilitate timely payments by the person of his obligation, if any, for the support of a child and the payment of any such obligation which is in arrears.

Sec. 2. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection ~~[3.]~~ 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any



1 peace officer, for the purpose of determining whether the defendant
2 has violated any condition of probation or suspension of sentence or
3 committed any crime. [F]

4 (b) Reside at a location only if [F]:

5 (1) *The residence* has been approved by the parole and
6 probation officer assigned to the defendant ; and [keep]

7 (2) *The defendant keeps* the parole and probation officer
8 *assigned to the defendant* informed of his current address. [F]

9 (c) Accept a position of employment or a position as a volunteer
10 only if [F]:

11 (1) *The place of employment or volunteer service is not*
12 *located at any place that is designed primarily for use by or for*
13 *children, including, without limitation, a public or private school,*
14 *a school bus stop, a center or facility that provides day care*
15 *services, a video arcade, an amusement park, a playground, a*
16 *park, an athletic field or a facility for youth sports, or a motion*
17 *picture theater;*

18 (2) *The position* has been approved by the parole and
19 probation officer assigned to the defendant ; and [keep]

20 (3) *The defendant keeps* the parole and probation officer
21 *assigned to the defendant* informed of the location of his position of
22 employment or position as a volunteer. [F]

23 (d) Abide by any curfew imposed by the parole and probation
24 officer assigned to the defendant. [F]

25 (e) Participate in and complete a program of professional
26 counseling approved by the Division. [F]

27 (f) Submit to periodic tests, as requested by the parole and
28 probation officer assigned to the defendant, to determine whether
29 the defendant is using a controlled substance. [F]

30 (g) Submit to periodic polygraph examinations, as requested by
31 the parole and probation officer assigned to the defendant. [F]

32 (h) Abstain from consuming, possessing or having under his
33 control any alcohol. [F]

34 (i) Not have contact or communicate with a victim of the sexual
35 offense or a witness who testified against the defendant or solicit
36 another person to engage in such contact or communication on
37 behalf of the defendant, unless approved by the parole and probation
38 officer assigned to the defendant, and a written agreement is entered
39 into and signed in the manner set forth in subsection [2:] 5.

40 (j) Not use aliases or fictitious names. [F]

41 (k) Not obtain a post office box unless the defendant receives
42 permission from the parole and probation officer assigned to the
43 defendant. [F]

44 (l) Not have contact with a person less than 18 years of age in a
45 secluded environment unless another adult who has never been



1 convicted of a sexual offense is present and permission has been
2 obtained from the parole and probation officer assigned to the
3 defendant in advance of each such contact. ~~{;}~~

4 (m) Unless approved by the parole and probation officer
5 assigned to the defendant and by a psychiatrist, psychologist or
6 counselor treating the defendant, if any, not be ~~in or near:~~

7 ~~— (1) A] within 500 feet of any place that is designed~~
8 ~~primarily for use by or for children, including, without limitation,~~
9 ~~a public or private school, a school bus stop, a center or facility~~
10 ~~that provides day care services, a video arcade, an amusement~~
11 ~~park, a playground, a park, [school or school grounds;~~

12 ~~— (2) A] an athletic field or a facility for youth sports, or a~~
13 ~~motion picture theater. {; or~~

14 ~~— (3) A business that primarily has children as customers or~~
15 ~~conducts events that primarily children attend;]~~

16 (n) Comply with any protocol concerning the use of prescription
17 medication prescribed by a treating physician, including, without
18 limitation, any protocol concerning the use of psychotropic
19 medication. ~~{;}~~

20 (o) Not possess any sexually explicit material that is deemed
21 inappropriate by the parole and probation officer assigned to the
22 defendant. ~~{;}~~

23 (p) Not patronize a business which offers a sexually related form
24 of entertainment and which is deemed inappropriate by the parole
25 and probation officer assigned to the defendant. ~~{;}~~

26 (q) Not possess any electronic device capable of accessing the
27 Internet and not access the Internet through any such device or any
28 other means, unless possession of such a device or such access is
29 approved by the parole and probation officer assigned to the
30 defendant. ~~{; and}~~

31 (r) Inform the parole and probation officer assigned to the
32 defendant if the defendant expects to be or becomes enrolled as a
33 student at an institution of higher education or changes the date of
34 commencement or termination of his enrollment at an institution of
35 higher education. As used in this paragraph, "institution of higher
36 education" has the meaning ascribed to it in NRS 179D.045.

37 2. *Except as otherwise provided in subsection 6, if a*
38 *defendant is convicted of an offense listed in subsection 6 of NRS*
39 *213.1255 against a child under the age of 14 years and is assigned*
40 *a Tier 3 level of notification and the court grants probation or*
41 *suspends the sentence, the court shall, in addition to any other*
42 *condition ordered pursuant to subsection 1, order as a condition of*
43 *probation or suspension of sentence that the defendant:*

44 (a) *Be placed under a system of active electronic monitoring*
45 *that is capable of identifying his location and producing, upon*



1 *request, reports or records of his presence near or within a crime*
2 *scene or prohibited area or his departure from a specified*
3 *geographic location; and*

4 *(b) Pay any costs associated with his participation under the*
5 *system of active electronic monitoring, to the extent of his ability*
6 *to pay.*

7 *3. A defendant placed under the system of active electronic*
8 *monitoring pursuant to subsection 2 shall:*

9 *(a) Follow the instructions provided by the Division to*
10 *maintain the electronic monitoring device in working order;*

11 *(b) Report any incidental damage or defacement of the*
12 *electronic monitoring device to the Division within 2 hours after*
13 *the occurrence of the damage or defacement; and*

14 *(c) Abide by any other conditions set forth by the Division with*
15 *regard to his participation under the system of active electronic*
16 *monitoring.*

17 *4. Except as otherwise provided in this subsection, a person*
18 *who intentionally removes or disables or attempts to remove or*
19 *disable an electronic monitoring device placed on a defendant*
20 *pursuant to this section is guilty of a gross misdemeanor. The*
21 *provisions of this subsection do not prohibit a person authorized*
22 *by the Division from performing maintenance or repairs to the*
23 *electronic monitoring device.*

24 *5. A written agreement entered into pursuant to paragraph (i) of*
25 *subsection 1 must state that the contact or communication is in the*
26 *best interest of the victim or witness, and specify the type of contact*
27 *or communication authorized. The written agreement must be*
28 *signed and agreed to by:*

29 *(a) The victim or the witness;*

30 *(b) The defendant;*

31 *(c) The parole and probation officer assigned to the defendant;*

32 *(d) The psychiatrist, psychologist or counselor treating the*
33 *defendant, victim or witness, if any; and*

34 *(e) If the victim or witness is a child under 18 years of age, each*
35 *parent, guardian or custodian of the child.*

36 ~~[3-]~~ *6. The court is not required to impose a condition of*
37 *probation or suspension of sentence listed in [subsection]*
38 *subsections 1 and 2 if the court finds that extraordinary*
39 *circumstances are present and the court enters those extraordinary*
40 *circumstances in the record.*

41 ~~[4-]~~ *7. As used in this section, "sexual offense" has the*
42 *meaning ascribed to it in NRS 179D.410.*



Sec. 3. NRS 179B.280 is hereby amended to read as follows:

179B.280 **1.** Any person who uses information obtained from the community notification website in violation of the provisions of NRS 179B.250 or 179B.270 is liable:

~~(1)~~ **(a)** In a civil action brought by or on behalf of a person injured by the violation, for damages, attorney's fees and costs incurred as the result of the violation; and

~~(2)~~ **(b)** In a civil action brought in the name of the State of Nevada by the Attorney General, for a civil penalty not to exceed \$25,000 and for the costs of the action, including investigative costs and attorney's fees.

2. Any person who uses information obtained from the community notification website to:

(a) Secure a payment from a sex offender; or

(b) Materially alter the information with the intent to misrepresent the information,

↳ is guilty of a misdemeanor.

Sec. 4. Chapter 179D of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who has reason to believe that a sex offender is not complying, or has failed to comply, with the requirements of this chapter and who, with the intent to assist the sex offender in eluding a law enforcement agency that is seeking to find the sex offender:

(a) Withholds the location of the sex offender from the law enforcement agency;

(b) Harbors or attempts to harbor, or assists another person in harboring or attempting to harbor, the sex offender;

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender;

(d) Knowingly provides false information about the sex offender to the law enforcement agency; or

(e) Does not notify the law enforcement agency about the sex offender's noncompliance,

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

2. This section does not apply if the sex offender is incarcerated or in the custody of a law enforcement agency.

Sec. 5. NRS 179D.240 is hereby amended to read as follows:

179D.240 **1.** In addition to any other registration that is required pursuant to NRS 179D.230, each offender who, after July 1, 1956, is or has been convicted of a crime against a child shall register with a local law enforcement agency pursuant to the provisions of this section.



2. Except as otherwise provided in subsection 3, if the offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department,

the offender shall be deemed a resident offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the offender shall be deemed a resident offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the offender is a nonresident offender who is a student or worker within this State, the offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident offender shall immediately notify the appropriate local law enforcement agency if:

(a) The offender 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

(b) The offender 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.

The offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the offender shall:

(a) Appear personally at the office of the appropriate local law enforcement agency;

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; and

(c) Sign and date the record of registration or some other proof of registration in the presence of an officer of the local law enforcement agency.

7. When an offender registers, the local law enforcement agency shall:



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(a) Inform the offender of the duty to notify the local law enforcement agency if the offender changes the address at which he resides or changes the primary address at which he is a student or worker; and

(b) Inform the offender of the duty to register with the local law enforcement agency in whose jurisdiction the offender relocates.

8. After the offender registers with the local law enforcement agency, the local law enforcement agency shall, *within 2 working days*, forward to the Central Repository the information collected, including the fingerprints and a photograph of the offender.

9. If the Central Repository has not previously established a record of registration for an offender described in subsection 8, the Central Repository shall:

(a) Establish a record of registration for the offender; and

(b) Provide notification concerning the offender to the appropriate local law enforcement agencies.

10. When an offender notifies a local law enforcement agency that:

(a) The offender 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

(b) The offender 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,

➔ ~~[and provides]~~ the *offender must provide the* name, address, *county, enrollment or employment status* and type of each such institution of higher education, ~~[the]~~ *including each campus attended. The* local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 6. NRS 179D.260 is hereby amended to read as follows:

179D.260 1. Except as otherwise provided in subsection ~~[4.]~~ *7*, each year, on the anniversary of the date that the Central Repository establishes a record of registration for the offender ~~[.]~~ *and during the sixth month following the anniversary date*, the Central Repository shall mail to the offender, at the address last registered by the offender, a nonforwardable verification form. The offender shall complete and sign the form and mail the form to the Central Repository not later than 10 days after receipt of the form to verify that he still resides at the address he last registered.

2. An offender shall include with each verification form a current set of fingerprints, a current photograph and all other information that is relevant to updating his record of registration,



1 including, but not limited to, any change in his name, *permanent or*
2 *temporary residential address*, occupation, employment, work,
3 volunteer service or driver's license and any change in the license
4 number or description of a motor vehicle registered to or frequently
5 driven by him. The Central Repository shall provide all updated
6 information to the appropriate local law enforcement agencies.

7 3. If the Central Repository does not receive a verification form
8 from an offender and otherwise cannot verify the address or location
9 of the offender, the Central Repository shall immediately notify the
10 appropriate local law enforcement agencies.

11 4. *A post office box must not be provided in lieu of a physical*
12 *residential address required by subsection 2.*

13 5. *If the offender's place of residence is a motor vehicle,*
14 *trailer, mobile home or manufactured home, the offender shall*
15 *also provide the vehicle identification number, the license tag*
16 *number, the registration number and a description, including the*
17 *color scheme, of the motor vehicle, trailer, mobile home or*
18 *manufactured home.*

19 6. *If the offender's place of residence is a vessel, live-aboard*
20 *vessel or houseboat, the offender shall also provide the hull*
21 *identification number, the manufacturer's serial number, the*
22 *registration number and a description, including the name and*
23 *color scheme, of the vessel, live-aboard vessel or houseboat.*

24 7. The Central Repository is not required to complete the
25 mailing pursuant to subsection 1:

26 (a) During any period in which an offender is incarcerated or
27 confined or has changed his place of residence from this State to
28 another jurisdiction; or

29 (b) For a nonresident offender who is a student or worker within
30 this State.

31 **Sec. 7.** NRS 179D.460 is hereby amended to read as follows:

32 179D.460 1. In addition to any other registration that is
33 required pursuant to NRS 179D.450, each sex offender who, after
34 July 1, 1956, is or has been convicted of a sexual offense shall
35 register with a local law enforcement agency pursuant to the
36 provisions of this section.

37 2. Except as otherwise provided in subsection 3, if the sex
38 offender resides or is present for 48 hours or more within:

39 (a) A county; or

40 (b) An incorporated city that does not have a city police
41 department,

42 ➔ the sex offender shall be deemed a resident sex offender and shall
43 register with the sheriff's office of the county or, if the county or the
44 city is within the jurisdiction of a metropolitan police department,



1 the metropolitan police department, not later than 48 hours after
2 arriving or establishing a residence within the county or the city.

3 3. If the sex offender resides or is present for 48 hours or more
4 within an incorporated city that has a city police department, the sex
5 offender shall be deemed a resident sex offender and shall register
6 with the city police department not later than 48 hours after arriving
7 or establishing a residence within the city.

8 4. If the sex offender is a nonresident sex offender who is a
9 student or worker within this State, the sex offender shall register
10 with the appropriate sheriff's office, metropolitan police department
11 or city police department in whose jurisdiction he is a student or
12 worker not later than 48 hours after becoming a student or worker
13 within this State.

14 5. A resident or nonresident sex offender shall immediately
15 notify the appropriate local law enforcement agency if:

16 (a) The sex offender is, expects to be or becomes enrolled as a
17 student at an institution of higher education or changes the date of
18 commencement or termination of his enrollment at an institution of
19 higher education; or

20 (b) The sex offender is, expects to be or becomes a worker at an
21 institution of higher education or changes the date of
22 commencement or termination of his work at an institution of higher
23 education.

24 ➤ The sex offender shall provide the name, address and type of
25 each such institution of higher education.

26 6. To register with a local law enforcement agency pursuant to
27 this section, the sex offender shall:

28 (a) Appear personally at the office of the appropriate local law
29 enforcement agency;

30 (b) Provide all information that is requested by the local law
31 enforcement agency, including, but not limited to, fingerprints and a
32 photograph; and

33 (c) Sign and date the record of registration or some other proof
34 of registration of the local law enforcement agency in the presence
35 of an officer of the local law enforcement agency.

36 7. When a sex offender registers, the local law enforcement
37 agency shall:

38 (a) Inform the sex offender of the duty to notify the local law
39 enforcement agency if the sex offender changes the address at which
40 he resides, including if he moves from this State to another
41 jurisdiction, or changes the primary address at which he is a student
42 or worker; and

43 (b) Inform the sex offender of the duty to register with the local
44 law enforcement agency in whose jurisdiction the sex offender
45 relocates.



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8. After the sex offender registers with the local law enforcement agency, the local law enforcement agency shall, *within 2 working days*, forward to the Central Repository the information collected, including the fingerprints and a photograph of the sex offender.

9. If the Central Repository has not previously established a record of registration for a sex offender described in subsection 8, the Central Repository shall:

(a) Establish a record of registration for the sex offender;

(b) Provide notification concerning the sex offender to the appropriate local law enforcement agencies; and

(c) If the sex offender is subject to community notification and has not otherwise been assigned a level of notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

10. When a sex offender notifies a local law enforcement agency that:

(a) The sex offender 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

(b) The sex offender 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,

➔ ~~[and provides]~~ the *sex offender must provide the* name, address, *county, enrollment or employment status* and type of each such institution of higher education, ~~[the]~~ *including each campus attended. The* local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 8. NRS 200.033 is hereby amended to read as follows:

200.033 The only circumstances by which murder of the first degree may be aggravated are:

1. The murder was committed by a person under sentence of imprisonment.

2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of:

(a) *A sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years;*

(b) Another murder and the provisions of subsection 12 do not otherwise apply to that other murder; or



1 ~~(b)~~ (c) A felony involving the use or threat of violence to the
2 person of another and the provisions of subsection 4 do not
3 otherwise apply to that felony.

4 ➔ For the purposes of this subsection, a person shall be deemed to
5 have been convicted at the time the jury verdict of guilt is rendered
6 or upon pronouncement of guilt by a judge or judges sitting without
7 a jury.

8 3. The murder was committed by a person who knowingly
9 created a great risk of death to more than one person by means of a
10 weapon, device or course of action which would normally be
11 hazardous to the lives of more than one person.

12 4. The murder was committed while the person was engaged,
13 alone or with others, in the commission of, or an attempt to commit
14 or flight after committing or attempting to commit, any robbery,
15 arson in the first degree, burglary, invasion of the home or
16 kidnapping in the first degree, and the person charged:

17 (a) Killed or attempted to kill the person murdered; or

18 (b) Knew or had reason to know that life would be taken or
19 lethal force used.

20 5. The murder was committed to avoid or prevent a lawful
21 arrest or to effect an escape from custody.

22 6. The murder was committed by a person, for himself or
23 another, to receive money or any other thing of monetary value.

24 7. The murder was committed upon a peace officer or
25 firefighter who was killed while engaged in the performance of his
26 official duty or because of an act performed in his official capacity,
27 and the defendant knew or reasonably should have known that the
28 victim was a peace officer or firefighter. For the purposes of this
29 subsection, "peace officer" means:

30 (a) An employee of the Department of Corrections who does not
31 exercise general control over offenders imprisoned within the
32 institutions and facilities of the Department, but whose normal
33 duties require him to come into contact with those offenders when
34 carrying out the duties prescribed by the Director of the Department.

35 (b) Any person upon whom some or all of the powers of a peace
36 officer are conferred pursuant to NRS 289.150 to 289.360, inclusive,
37 when carrying out those powers.

38 8. The murder involved torture or the mutilation of the victim.

39 9. The murder was committed upon one or more persons at
40 random and without apparent motive.

41 10. The murder was committed upon a person less than 14
42 years of age.

43 11. The murder was committed upon a person because of the
44 actual or perceived race, color, religion, national origin, physical or
45 mental disability or sexual orientation of that person.



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12. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree. For the purposes of this subsection, a person shall be deemed to have been convicted of a murder at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.

13. The person, alone or with others, subjected or attempted to subject the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder. For the purposes of this subsection:

(a) "Nonconsensual" means against the victim's will or under conditions in which the person knows or reasonably should know that the victim is mentally or physically incapable of resisting, consenting or understanding the nature of his conduct, including, but not limited to, conditions in which the person knows or reasonably should know that the victim is dead.

(b) "Sexual penetration" means cunnilingus, fellatio or any intrusion, however slight, of any part of the victim's body or any object manipulated or inserted by a person, alone or with others, into the genital or anal openings of the body of the victim, whether or not the victim is alive. The term includes, but is not limited to, anal intercourse and sexual intercourse in what would be its ordinary meaning.

14. The murder was committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person. For the purposes of this subsection, "school bus" has the meaning ascribed to it in NRS 483.160.

15. The murder was committed with the intent to commit, cause, aid, further or conceal an act of terrorism. For the purposes of this subsection, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 9. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a child.

2. Except as otherwise provided in subsection 3, a person who commits lewdness with ~~fa~~:



1 (a) A child *who is 12 or 13 years of age* is guilty of a category
2 A felony and shall be punished by imprisonment in the state prison
3 for life with the possibility of parole, with eligibility for parole
4 beginning when a minimum of 10 years has been served, and may
5 be further punished by a fine of not more than \$10,000.

6 (b) *A child who is under the age of 12 years is guilty of a*
7 *category A felony and shall be punished by imprisonment in the*
8 *state prison for:*

9 (1) *Life with the possibility of parole, with eligibility for*
10 *parole beginning when a minimum of 25 years has been served,*
11 *and may be further punished by a fine of not more than \$10,000;*
12 *or*

13 (2) *Life without the possibility of parole.*

14 3. A person who commits lewdness with a child and who has
15 been previously convicted of:

16 (a) Lewdness with a child pursuant to this section or any other
17 sexual offense against a child; or

18 (b) An offense committed in another jurisdiction that, if
19 committed in this State, would constitute lewdness with a child
20 pursuant to this section or any other sexual offense against a child,
21 ➔ is guilty of a category A felony and shall be punished by
22 imprisonment in the state prison for life without the possibility of
23 parole.

24 4. For the purpose of this section, "other sexual offense against
25 a child" has the meaning ascribed to it in subsection 5 of
26 NRS 200.366.

27 **Sec. 10.** NRS 213.1243 is hereby amended to read as follows:

28 213.1243 1. The Board shall establish by regulation a
29 program of lifetime supervision of sex offenders to commence after
30 any period of probation or any term of imprisonment and any period
31 of release on parole. The program must provide for the lifetime
32 supervision of sex offenders by parole and probation officers.

33 2. Lifetime supervision shall be deemed a form of parole for:

34 (a) The limited purposes of the applicability of the provisions of
35 NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and
36 subsection 2 of NRS 213.110; and

37 (b) The purposes of the Interstate Compact for Adult Offender
38 Supervision ratified, enacted and entered into by the State of Nevada
39 pursuant to NRS 213.215.

40 3. *Except as otherwise provided in subsection 8, the Board*
41 *shall require as a condition of lifetime supervision that the sex*
42 *offender:*

43 (a) *Accept a position of employment or a position as a*
44 *volunteer only if:*



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1 (1) *The place of employment or volunteer service is not*
2 *located at any place that is designed primarily for use by or for*
3 *children, including, without limitation, a public or private school,*
4 *a school bus stop, a center or facility that provides day care*
5 *services, a video arcade, an amusement park, a playground, a*
6 *park, an athletic field or a facility for youth sports, or a motion*
7 *picture theater;*

8 (2) *The position has been approved by the parole and*
9 *probation officer assigned to the sex offender; and*

10 (3) *The sex offender keeps the parole and probation officer*
11 *assigned to the sex offender informed of the location of his*
12 *position of employment or position as a volunteer.*

13 (b) *Unless approved by the parole and probation officer*
14 *assigned to the sex offender and by a psychiatrist, psychologist or*
15 *counselor treating the sex offender, if any, not be within 500 feet*
16 *of any place that is designed primarily for use by or for children,*
17 *including, without limitation, a public or private school, a school*
18 *bus stop, a center or facility that provides day care services, a*
19 *video arcade, an amusement park, a playground, a park, an*
20 *athletic field or a facility for youth sports, or a motion picture*
21 *theater.*

22 4. *Except as otherwise provided in subsection 8, if a person is*
23 *convicted of a sexual offense listed in subsection 6 of NRS*
24 *213.1255 against a child under the age of 14 years, is assigned a*
25 *Tier 3 level of notification and is sentenced to lifetime supervision,*
26 *the Board shall, in addition to the condition described in*
27 *subsection 3, require as a condition of lifetime supervision that the*
28 *person:*

29 (a) *Be placed under a system of active electronic monitoring*
30 *that is capable of identifying his location and producing, upon*
31 *request, reports or records of his presence near or within a crime*
32 *scene or prohibited area or his departure from a specified*
33 *geographic location; and*

34 (b) *Pay any costs associated with his participation under the*
35 *system of active electronic monitoring, to the extent of his ability*
36 *to pay.*

37 5. *A person placed under the system of active electronic*
38 *monitoring pursuant to subsection 4 shall:*

39 (a) *Follow the instructions provided by the Division to*
40 *maintain the electronic monitoring device in working order;*

41 (b) *Report any incidental damage or defacement of the*
42 *electronic monitoring device to the Division within 2 hours after*
43 *the occurrence of the damage or defacement; and*



(c) *Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.*

6. *Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a person pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.*

7. *Except as otherwise provided in subsection 6, a person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of* ~~[-~~

~~(a) If the violation constitutes a minor violation, a misdemeanor.~~

~~(b) If the violation constitutes a major violation.]~~ 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, and may be further punished by a fine of not more than \$5,000.

~~[4.]~~ 8. *The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3 and 4 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

9. *If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.*

10. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~[5. As used in this section:~~

~~(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:~~

~~(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;~~

~~(2) The use of a deadly weapon, explosives or a firearm;~~



~~(3) The use or threatened use of force or violence against a person;~~

~~(4) Death or bodily injury of a person;~~

~~(5) An act of domestic violence;~~

~~(6) Harassment, stalking or threats of any kind; or~~

~~(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.~~

~~(b) "Minor violation" means a violation that does not constitute a major violation.]~~

Sec. 11. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~it~~:

(1) The residence has been approved by the parole and probation officer assigned to the parolee ; and ~~keep~~

(2) The parolee keeps the parole and probation officer *assigned to the parolee* informed of his current address . ~~it~~

(b) Accept a position of employment or a position as a volunteer only if ~~it~~:

(1) The place of employment or volunteer service is not located at any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater;

(2) The position has been approved by the parole and probation officer assigned to the parolee ; and ~~keep~~

(3) The parolee keeps the parole and probation officer *assigned to the parolee* informed of the location of his position of employment or position as a volunteer . ~~it~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee . ~~it~~

(d) Participate in and complete a program of professional counseling approved by the Division . ~~it~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance . ~~it~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee . ~~it~~

(g) Abstain from consuming, possessing or having under his control any alcohol . ~~it~~



(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2. [;]

(i) Not use aliases or fictitious names. [;]

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee. [;]

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact. [;]

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be ~~[in or near:~~

~~(1) A] within 500 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, [school or school grounds;~~

~~(2) A] an athletic field or a facility for youth sports, or a motion picture theater. [; or~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend;]~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. [;]

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee. [;]

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee. [;]

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee. [; and]

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of



1 commencement or termination of his enrollment at an institution of
2 higher education. As used in this paragraph, "institution of higher
3 education" has the meaning ascribed to it in NRS 179D.045.

4 2. A written agreement entered into pursuant to paragraph (h)
5 of subsection 1 must state that the contact or communication is in
6 the best interest of the victim or witness, and specify the type of
7 contact or communication authorized. The written agreement must
8 be signed and agreed to by:

- 9 (a) The victim or the witness;
10 (b) The parolee;
11 (c) The parole and probation officer assigned to the parolee;
12 (d) The psychiatrist, psychologist or counselor treating the
13 parolee, victim or witness, if any; and
14 (e) If the victim or witness is a child under 18 years of age, each
15 parent, guardian or custodian of the child.

16 3. The Board is not required to impose a condition of parole
17 listed in subsection 1 if the Board finds that extraordinary
18 circumstances are present and the Board states those extraordinary
19 circumstances in writing.

20 **Sec. 12.** NRS 213.1255 is hereby amended to read as follows:

21 213.1255 1. *Except as otherwise provided in subsection 4,*
22 *in addition to any conditions of parole required to be imposed*
23 *pursuant to NRS 213.1245, as a condition of releasing on parole a*
24 *prisoner who was convicted of committing an offense listed in*
25 *subsection 6 against a child under the age of 14 years and has*
26 *been assigned a Tier 3 level of notification, the Board shall*
27 *require that the parolee:*

28 (a) *Be placed under a system of active electronic monitoring*
29 *that is capable of identifying his location and producing, upon*
30 *request, reports or records of his presence near or within a crime*
31 *scene or prohibited area or his departure from a specified*
32 *geographic location; and*

33 (b) *Pay any costs associated with his participation under the*
34 *system of active electronic monitoring, to the extent of his ability*
35 *to pay.*

36 2. *A parolee placed under the system of active electronic*
37 *monitoring pursuant to subsection 1 shall:*

38 (a) *Follow the instructions provided by the Division to*
39 *maintain the electronic monitoring device in working order;*

40 (b) *Report any incidental damage or defacement of the*
41 *electronic monitoring device to the Division within 2 hours after*
42 *the occurrence of the damage or defacement; and*

43 (c) *Abide by any other conditions set forth by the Division with*
44 *regard to his participation under the system of active electronic*
45 *monitoring.*



3. *Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.*

4. *The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

5. In addition to any conditions of parole required to be imposed pursuant to *subsection 1 and* NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection ~~2~~ 6 against a child under the age of 14 years ~~and~~ *and has been assigned a Tier 3 level of notification*, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling; *and*

(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.]~~ 6. The provisions of ~~[subsection]~~ *subsections 1 and 5* 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;

(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or

(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.



1 **Sec. 13.** The amendatory provisions of:

2 1. Section 2 of this act apply to any person who is granted
3 probation or a suspension of sentence before, on or after October 1,
4 2007;

5 2. Section 10 of this act apply to any person placed under a
6 program of lifetime su
7 pervision before, on or after October 1, 2007; and

8 3. Sections 11 and 12 of this act apply to any person released
9 on parole before, on or after October 1, 2007.

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