

Amendment No. 269

Senate Amendment to Senate Bill No. 232

(BDR 14-17)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

DY/KEL



Date: 4/19/2007

S.B. No. 232—Makes various changes to the provisions governing sex offenders.
(BDR 14-17)



SENATE BILL NO. 232—SENATORS TITUS, HORSFORD, WIENER, RAGGIO, CEGAVSKE,
COFFIN, HARDY, HECK, MCGINNESS, SCHNEIDER AND WOODHOUSE

MARCH 7, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to the provisions governing sex offenders.
(BDR 14-17)

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 provisions pertaining to pleas involving sexual offenses;~~ revising the provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; increasing the minimum sentence for certain sexual offenses committed against 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:

~~Existing law allows a defendant to plead guilty, not guilty or, with the consent of the court, nolo contendere. (NRS 174.035) Section 1 of this bill provides that the court may not accept a plea of nolo contendere to a sexual offense and may accept a plea of guilty to a sexual offense only if the defendant admits that he committed the offense. Section 1 also provides that a prosecuting attorney may not dismiss a charge for a sexual offense in exchange for a plea of guilty to a lesser charge unless the lesser charge is also a sexual offense, except when the charge and all lesser charges are not supported by probable cause or cannot be proved at trial.~~

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) **Sections 4, 6 and 7** of this bill prohibit such sex offenders **who have been assigned a Tier 3 level of notification** from going near certain locations frequented primarily by children. **Sections 4, 6 and 8** of this bill prohibit such sex offenders convicted of a sexual offense against a child under the age of 14 years **and assigned a Tier 3 level of notification** from establishing residences within ~~(2,000)~~ **1,000** feet of certain locations frequented primarily by children. **Sections 4, 6 and 8** also require such sex offenders to be placed under a system of active electronic monitoring **under certain circumstances** and to pay any costs associated with their participation under the system of active electronic monitoring, to the extent of their ability to pay. **Sections 4, 6 and 8** further prohibit persons from removing or disabling an electronic monitoring device without authorization.

Under existing law, a sex offender who commits a violation of a condition of his lifetime supervision is guilty of a misdemeanor for a minor violation or a category B felony for a major violation. (NRS 213.1243) **Section 6** of this bill eliminates the classification of violations and makes all such violations punishable as a category B felony. **Section 6** also requires a court that issues an arrest warrant for a violation of a condition imposed pursuant to the program of lifetime supervision to transmit notice of the issuance of the warrant to the Central Repository for Nevada Records of Criminal History within 3 business days.

Existing law establishes the imposition of minimum sentences for certain sexual offenses committed against a child. (NRS 200.366) **Section 5** of this bill increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 16 years that does not result in substantial bodily harm to the child from 20 to 25 years. **Section 5** also increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 14 years that does not result in substantial bodily harm to the child from 20 to 35 years.

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

Section 1. ~~[Chapter 174 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The court may not accept from a defendant a plea of nolo contendere to a sexual offense.~~

~~2. The court may accept from a defendant a plea of guilty to a sexual offense only if the defendant admits in court that he committed the sexual offense.~~

~~3. Except as otherwise provided in subsection 4, a prosecuting attorney may not dismiss a sexual offense for which a defendant is charged in exchange for a plea of guilty to a lesser charge unless the lesser charge is also a sexual offense.~~

~~4. The provisions of subsection 3 do not apply if, in the judgment of the prosecuting attorney, the sexual offense for which the defendant is charged and all other sexual offenses that are lesser charges are not supported by probable cause or cannot be proved at trial.~~

~~5. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179A.073.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 174.035 is hereby amended to read as follows:~~

~~174.035 1. A defendant may plead not guilty, guilty or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty.~~

~~2. If a plea of guilty is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.~~

~~3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.~~

~~4. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set~~

~~for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish his insanity by a preponderance of the evidence.~~

~~5. If a defendant refuses to plead or if the court refuses to accept or otherwise may not accept pursuant to section 1 of this act a plea of guilty, or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.~~

~~6. A defendant may not enter a plea of guilty pursuant to a plea bargain for an offense punishable as a felony for which:~~

~~(a) Probation is not allowed; or~~

~~(b) The maximum prison sentence is more than 10 years;~~

~~unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.]~~

(Deleted by amendment.)

Sec. 3. NRS 176.0926 is hereby amended to read as follows:

176.0926 1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

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

(b) Inform the defendant of the requirements for registration, 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.240;

(2) The duty to register in any other jurisdiction, *including, without limitation, any jurisdiction outside the United States*, 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, *including, without limitation, any jurisdiction outside the United States*, 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, *including, without limitation, any jurisdiction outside the United States*, 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 confirming 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.200 to 179D.290, inclusive.

Sec. 4. 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

1 pursuant to NRS 176A.400, order as a condition of probation or suspension of
2 sentence that the defendant:

3 (a) Submit to a search and seizure of his person, residence or vehicle or any
4 property under his control, at any time of the day or night, without a warrant, by
5 any parole and probation officer or any peace officer, for the purpose of
6 determining whether the defendant has violated any condition of probation or
7 suspension of sentence or committed any crime. ~~{+}~~

8 (b) Reside at a location only if ~~{+}~~:

9 (1) *The residence* has been approved by the parole and probation officer
10 assigned to the defendant. ~~{and keep}~~

11 (2) *The defendant keeps* the parole and probation officer *assigned to the*
12 *defendant* informed of his current address. ~~{+}~~

13 (c) Accept a position of employment or a position as a volunteer only if it has
14 been approved by the parole and probation officer assigned to the defendant and
15 keep the parole and probation officer informed of the location of his position of
16 employment or position as a volunteer. ~~{+}~~

17 (d) Abide by any curfew imposed by the parole and probation officer assigned
18 to the defendant. ~~{+}~~

19 (e) Participate in and complete a program of professional counseling approved
20 by the Division. ~~{+}~~

21 (f) Submit to periodic tests, as requested by the parole and probation officer
22 assigned to the defendant, to determine whether the defendant is using a controlled
23 substance. ~~{+}~~

24 (g) Submit to periodic polygraph examinations, as requested by the parole and
25 probation officer assigned to the defendant. ~~{+}~~

26 (h) Abstain from consuming, possessing or having under his control any
27 alcohol. ~~{+}~~

28 (i) Not have contact or communicate with a victim of the sexual offense or a
29 witness who testified against the defendant or solicit another person to engage in
30 such contact or communication on behalf of the defendant, unless approved by the
31 parole and probation officer assigned to the defendant, and a written agreement is
32 entered into and signed in the manner set forth in subsection ~~{2+}~~ 5.

33 (j) Not use aliases or fictitious names. ~~{+}~~

34 (k) Not obtain a post office box unless the defendant receives permission from
35 the parole and probation officer assigned to the defendant. ~~{+}~~

36 (l) Not have contact with a person less than 18 years of age in a secluded
37 environment unless another adult who has never been convicted of a sexual offense
38 is present and permission has been obtained from the parole and probation officer
39 assigned to the defendant in advance of each such contact. ~~{+}~~

40 (m) Unless approved by the parole and probation officer assigned to the
41 defendant and by a psychiatrist, psychologist or counselor treating the defendant, if
42 any, not ~~{be}~~ ~~{in or near}~~

43 ~~— (1) A~~ *knowingly be within 500 feet of any place , or if the place is a*
44 *structure, within 500 feet of the actual structure, that is designed primarily for*
45 *use by or for children, including, without limitation, a public or private school, a*
46 *school bus stop, a center or facility that provides day care services, a video*
47 *arcade, an amusement park, a playground, a park,* ~~{school or school grounds;~~

48 ~~— (2) A~~ *an athletic field or a facility for youth sports, or a* motion picture
49 theater. ~~{; or}~~

50 ~~— (3) A business that primarily has children as customers or conducts events~~
51 ~~that primarily children attend-;~~ *The provisions of this paragraph apply only to a*
52 *defendant who has been assigned a Tier 3 level of notification.*

(n) 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. ~~and~~

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

(p) 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 defendant. ~~and~~

(q) 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 defendant. ~~and~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant 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. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

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

(a) *Reside at a location only if the residence is not located within ~~2,000~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, 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.*

(b) ~~Be~~ *As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.*

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

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

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

(b) *Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.*

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

4. *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 defendant 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.*

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

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

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

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

Sec. 5. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~20~~ 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~20~~ 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

➤ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

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

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 6. NRS 213.1243 is hereby amended to read as follows:

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

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

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

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

3. *Except as otherwise provided in subsection 8, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, 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. The provisions of this subsection apply only to a sex offender who has been assigned a Tier 3 level of notification.*

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

(a) *Reside at a location only if the residence is not located within ~~2,000~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, 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.*

(b) ~~Be~~ *As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.*

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

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

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(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. 7. 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 ~~the~~:

(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. ~~the~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~the~~

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

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

(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. ~~the~~

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

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

(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. ~~the~~

(i) Not use aliases or fictitious names. ~~the~~

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

(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. ~~the~~

(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~~ *knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, 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.* ~~the~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend.~~ The provisions of this paragraph apply only to a parolee who has been assigned a Tier 3 level of notification.

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

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

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and

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

3. 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.

Sec. 8. NRS 213.1255 is hereby amended to read as follows:

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

(a) Reside at a location only if the residence is not located within ~~{2,000}~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, 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.

(b) ~~{Be}~~ As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

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

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic 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, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling. ~~;~~

(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present. ~~;~~ and

~~(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.~~

~~2.~~ 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.

Sec. 9. The amendatory provisions of:

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

2. Section 6 of this act apply to any person placed under a program of lifetime supervision before, on or after July 1, 2007; and

3. Sections 7 and 8 of this act apply to any person released on parole before, on or after July 1, 2007.

Sec. 10. This act becomes effective on July 1, 2007.