

ASSEMBLY BILL NO. 325—ASSEMBLYMEN STEWART, GANSERT;  
COBB, GOEDHART, GRADY, GUSTAVSON, HAMBRICK,  
HARDY, KIRKPATRICK, MCARTHUR, MUNFORD,  
SETTELMAYER AND WOODBURY

MARCH 13, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Revises provisions relating to sex offenders.  
(BDR 14-1028)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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; establishing certain restrictions  
regarding residency for persons who are convicted of  
certain sexual offenses; and providing other matters  
properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law provides that if a person is convicted of certain offenses against a  
2 child under the age of 14 years, the person is a Tier III sex offender and the person  
3 is on probation, lifetime supervision or parole, the person is subject to certain  
4 restrictions concerning the place of his residence, such as not residing within 1,000  
5 feet of any place that is designed primarily for use by or for children. (NRS  
6 176A.410, 213.1243, 213.1255) This bill provides that such a person may reside at  
7 a location only if the residence is not located within 1,000 feet of the property line  
8 of the property on which a victim of the person resides. This bill also clarifies that:  
9 (1) the previously enacted restrictions on the residency of such a person apply only  
10 to a person who establishes a residence on or after October 1, 2007, which is the  
11 date on which those restrictions became law; and (2) the additional restrictions on  
12 residency of such a person contained in this bill apply only to a person who  
13 establishes a residence on or after October 1, 2009, which is the date this bill  
14 becomes effective.



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

**Section 1.** NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 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 peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) 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 defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

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

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

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

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on



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1 behalf of the defendant, unless approved by the parole and probation  
2 officer assigned to the defendant, and a written agreement is entered  
3 into and signed in the manner set forth in subsection 5.

4 (j) Not use aliases or fictitious names.

5 (k) Not obtain a post office box unless the defendant receives  
6 permission from the parole and probation officer assigned to the  
7 defendant.

8 (l) Not have contact with a person less than 18 years of age in a  
9 secluded environment unless another adult who has never been  
10 convicted of a sexual offense is present and permission has been  
11 obtained from the parole and probation officer assigned to the  
12 defendant in advance of each such contact.

13 (m) Unless approved by the parole and probation officer  
14 assigned to the defendant and by a psychiatrist, psychologist or  
15 counselor treating the defendant, if any, not knowingly be within  
16 500 feet of any place, or if the place is a structure, within 500 feet of  
17 the actual structure, that is designed primarily for use by or for  
18 children, including, without limitation, a public or private school, a  
19 school bus stop, a center or facility that provides day care services, a  
20 video arcade, an amusement park, a playground, a park, an athletic  
21 field or a facility for youth sports, or a motion picture theater. The  
22 provisions of this paragraph apply only to a defendant who is a Tier  
23 III offender.

24 (n) Comply with any protocol concerning the use of prescription  
25 medication prescribed by a treating physician, including, without  
26 limitation, any protocol concerning the use of psychotropic  
27 medication.

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

31 (p) Not patronize a business which offers a sexually related form  
32 of entertainment and which is deemed inappropriate by the parole  
33 and probation officer assigned to the defendant.

34 (q) Not possess any electronic device capable of accessing the  
35 Internet and not access the Internet through any such device or any  
36 other means, unless possession of such a device or such access is  
37 approved by the parole and probation officer assigned to the  
38 defendant.

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



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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 a Tier III offender and the court grants probation or suspends the sentence of the defendant, 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 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. *The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2007.*

(b) *Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the defendant resides. The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2009.*

(c) 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)~~ (d) 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



1 the Division from performing maintenance or repairs to an  
2 electronic monitoring device.

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

8 (a) The victim or the witness;

9 (b) The defendant;

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

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

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

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

19 7. As used in this section, "sexual offense" has the meaning  
20 ascribed to it in NRS 179D.097.

21 **Sec. 2.** NRS 213.1243 is hereby amended to read as follows:

22 213.1243 1. The Board shall establish by regulation a  
23 program of lifetime supervision of sex offenders to commence after  
24 any period of probation or any term of imprisonment and any period  
25 of release on parole. The program must provide for the lifetime  
26 supervision of sex offenders by parole and probation officers.

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

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

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

34 3. Except as otherwise provided in subsection 9, the Board  
35 shall require as a condition of lifetime supervision that the sex  
36 offender reside at a location only if:

37 (a) The residence has been approved by the parole and probation  
38 officer assigned to the person.

39 (b) If the residence is a facility that houses more than three  
40 persons who have been released from prison, the facility is a facility  
41 for transitional living for released offenders that is licensed pursuant  
42 to chapter 449 of NRS.

43 (c) The person keeps the parole and probation officer informed  
44 of his current address.



4. Except as otherwise provided in subsection 9, 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 is a Tier ~~III~~ **III** offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier ~~III~~ **III** offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 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. *The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2007.*

(b) *Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the sex offender resides. The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2009.*

(c) 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.

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

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:



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

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

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

9 7. Except as otherwise provided in this subsection, a person  
10 who intentionally removes or disables or attempts to remove or  
11 disable an electronic monitoring device placed on a sex offender  
12 pursuant to this section is guilty of a gross misdemeanor. The  
13 provisions of this subsection do not prohibit a person authorized by  
14 the Division from performing maintenance or repairs to an  
15 electronic monitoring device.

16 8. Except as otherwise provided in subsection 7, a sex offender  
17 who commits a violation of a condition imposed on him pursuant to  
18 the program of lifetime supervision is guilty of a category B felony  
19 and shall be punished by imprisonment in the state prison for a  
20 minimum term of not less than 1 year and a maximum term of not  
21 more than 6 years, and may be further punished by a fine of not  
22 more than \$5,000.

23 9. The Board is not required to impose a condition pursuant to  
24 the program of lifetime supervision listed in subsections 3, 4 and 5  
25 if the Board finds that extraordinary circumstances are present and  
26 the Board states those extraordinary circumstances in writing.

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

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

41 **Sec. 3.** NRS 213.1255 is hereby amended to read as follows:

42 213.1255 1. Except as otherwise provided in subsection 4, in  
43 addition to any conditions of parole required to be imposed pursuant  
44 to NRS 213.1245, as a condition of releasing on parole a prisoner  
45 who was convicted of committing an offense listed in subsection 6



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1 against a child under the age of 14 years and who is a Tier ~~III~~ **III**  
2 offender, the Board shall require that the parolee:

3 (a) Reside at a location only if the residence is not located  
4 within 1,000 feet of any place, or if the place is a structure, within  
5 1,000 feet of the actual structure, that is designed primarily for use  
6 by or for children, including, without limitation, a public or private  
7 school, a school bus stop, a center or facility that provides day care  
8 services, a video arcade, an amusement park, a playground, a park,  
9 an athletic field or a facility for youth sports, or a motion picture  
10 theater. *The provisions of this paragraph apply to a parolee who*  
11 *establishes a residence at a location on or after October 1, 2007.*

12 (b) *Reside at a location only if the residence is not located*  
13 *within 1,000 feet of the property line of the property on which a*  
14 *victim of the parolee resides. The provisions of this paragraph*  
15 *apply to a parolee who establishes a residence at a location on or*  
16 *after October 1, 2009.*

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

22 ~~(e)~~ (d) Pay any costs associated with his participation under  
23 the system of active electronic monitoring, to the extent of his  
24 ability to pay.

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

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

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

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

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

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





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

6       (a) Require the parolee to participate in psychological  
7 counseling.

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

11       6. The provisions of subsections 1 and 5 apply to a prisoner  
12 who was convicted of:

13       (a) Sexual assault pursuant to paragraph (c) of subsection 3 of  
14 NRS 200.366;

15       (b) Abuse or neglect of a child pursuant to subparagraph (1) of  
16 paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a)  
17 of subsection 2 of NRS 200.508;

18       (c) An offense punishable pursuant to subsection 2 of  
19 NRS 200.750;

20       (d) Solicitation of a minor to engage in acts constituting the  
21 infamous crime against nature pursuant to subparagraph (1) of  
22 paragraph (a) of subsection 1 of NRS 201.195;

23       (e) Lewdness with a child pursuant to NRS 201.230;

24       (f) Luring a child or a person with mental illness pursuant to  
25 NRS 201.560, if punished as a felony; or

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

28       **Sec. 4.** The amendatory provisions of:

29       1. Section 1 of this act apply to a person who is granted  
30 probation or a suspension of sentence before, on or after October 1,  
31 2009.

32       2. Section 2 of this act apply to a person who is placed under a  
33 program of lifetime supervision before, on or after October 1, 2009.

34       3. Section 3 of this act apply to a person who is released on  
35 parole before, on or after October 1, 2009.

