

ASSEMBLY BILL NO. 88—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography. (BDR 15-267)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to sexual offenses; establishing a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill establishes a civil cause of action for a person who, as
2 minor, was a victim of a sexual offense where any sexual portrayal of the offense
3 was used to promote child pornography. A victim who prevails in such an action
4 may recover his actual damages, which are deemed to be at least \$150,000, plus
5 attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations
6 for such an action.

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

1 **Section 1.** Chapter 200 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. Any person who, while a minor, was a victim of a sexual***
4 ***offense of which any sexual portrayal of such offense was used to***
5 ***promote child pornography and who suffered personal or***
6 ***psychological injury as a result may bring an action against any***
7 ***person who promoted or possessed the child pornography,***
8 ***regardless of whether the victim is now an adult.***



2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least \$150,000, plus attorney's fees and costs.

3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.

5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.

6. As used in this section:

(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.

(b) "Sexual offense" means a violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, **and section 1 of this act**, unless the context otherwise ~~provides:~~ **requires:**

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in **subsection 2 and NRS 217.007**, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:



- 1 (a) Reaches 18 years of age; or
- 2 (b) Discovers or reasonably should have discovered that his
- 3 injury was caused by the sexual abuse,
- 4 ➡ whichever occurs later.
- 5 2. *An action to recover damages pursuant to section 1 of this*
- 6 *act must be commenced within 3 years after the occurrence of the*
- 7 *following, whichever is later:*
- 8 (a) *The court enters a verdict in a related criminal case; or*
- 9 (b) *The victim reaches the age of 18 years.*
- 10 3. As used in this section, “sexual abuse” has the meaning
- 11 ascribed to it in NRS 432B.100.

