

## Amendment No. 692

Senate Amendment to Assembly Bill No. 325 First Reprint (BDR 14-1028)

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 dashed underlining* is newly added transitory language.

NMB/BAW



Date: 5/15/2009

A.B. No. 325—Revises provisions relating to sex offenders. (BDR 14-1028)



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; prohibiting persons who are convicted of certain sexual offenses from having contact with a victim or witness; revising provisions relating to the confidentiality of records and reports that reveal identity in cases involving certain offenses; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that if a person is convicted of certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and probation officer. (NRS 176A.410, 213.1245) **Sections 1 and 2.5** of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. **Section 2** of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

**Sections 1.1-1.5 of this bill expand the prohibition on the public disclosure of the identity of a victim of a sexual assault to include a victim of statutory sexual seduction or sexual conduct involving a pupil or student.**

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

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

4 (b) Reside at a location only if:

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

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

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

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

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

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

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

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

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

27 (i) Not have contact or communicate with a victim of the sexual offense or a  
28 witness who testified against the defendant or solicit another person to engage in  
29 such contact or communication on behalf of the defendant, unless approved by the  
30 ~~{parole and probation officer assigned to the defendant.}~~ **Chief Parole and**  
31 **Probation Officer or his designee** and a written agreement is entered into and  
32 signed in the manner set forth in subsection 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 knowingly be within 500 feet of any place, or if the place is a structure,  
43 within 500 feet of the actual structure, that is designed primarily for use by or for  
44 children, including, without limitation, a public or private school, a school bus stop,  
45 a center or facility that provides day care services, a video arcade, an amusement  
46 park, a playground, a park, an athletic field or a facility for youth sports, or a  
47 motion picture theater. The provisions of this paragraph apply only to a defendant  
48 who is a Tier III offender.

49 (n) Comply with any protocol concerning the use of prescription medication  
50 prescribed by a treating physician, including, without limitation, any protocol  
51 concerning the use of psychotropic medication.

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

(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.

(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.

(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 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.

(b) 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 ~~;~~ **and**

***(f) The Chief Parole and Probation Officer or his designee.***

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

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

***Sec. 1.1. NRS 200.364 is hereby amended to read as follows:***

200.364 As used in NRS 200.364 to 200.3774, inclusive, unless the context otherwise requires:

1. ***"Offense involving a pupil" means any of the following offenses:***

***(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.***

***(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.***

2. ***"Perpetrator" means a person who commits a sexual ~~assault~~ offense or an offense involving a pupil.***

~~3.~~ 3. ***"Sexual offense" means any of the following offenses:***

***(a) Sexual assault pursuant to NRS 200.366.***

***(b) Statutory sexual seduction pursuant to NRS 200.368.***

4. ***"Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.***

~~5.~~ 5. ***"Statutory sexual seduction" means:***

(a) Ordinary sexual intercourse, anal intercourse, cunnilingus or fellatio committed by a person 18 years of age or older with a person under the age of 16 years; or

(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.

~~6.~~ 6. ***"Victim" means a person who is ~~subjected to~~ a victim of a sexual ~~assault~~ offense or an offense involving a pupil.***

***Sec. 1.2. NRS 200.377 is hereby amended to read as follows:***

200.377 The Legislature finds and declares that:

1. This State has a compelling interest in assuring that the victim of a sexual ~~assault~~ offense or an offense involving a pupil:

(a) Reports the ~~assault~~ sexual offense or offense involving a pupil to the appropriate authorities;

(b) Cooperates in the investigation and prosecution of the ~~assault~~ sexual offense or offense involving a pupil; and

(c) Testifies at the criminal trial of the person charged with committing the ~~assault~~ sexual offense or offense involving a pupil.

2. The fear of public identification and invasion of privacy are fundamental concerns for the victims of sexual ~~assault~~ offenses or offenses involving a pupil. If these concerns are not addressed and the victims are left unprotected, the victims may refrain from reporting and prosecuting sexual ~~assaults~~ offenses or offenses involving a pupil.

3. A victim of a sexual ~~assault~~ offense or an offense involving a pupil may be harassed, intimidated and psychologically harmed by a public report that identifies the victim. A sexual ~~assault~~ offense or an offense involving a pupil is, in many ways, a unique, distinctive and intrusive personal trauma. The consequences of identification are often additional psychological trauma and the public disclosure of private personal experiences.

4. Recent public criminal trials have focused attention on these issues and have dramatized the need for basic protections for the victims of sexual ~~assault~~ offenses or offenses involving a pupil.

5. The public has no overriding need to know the individual identity of the victim of a sexual ~~assault~~ offense or an offense involving a pupil.

6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to protect the victims of sexual ~~assault~~ offenses and offenses involving a pupil from harassment, intimidation, psychological trauma and the unwarranted invasion of their privacy by prohibiting the disclosure of their identities to the public.

**Sec. 1.3. NRS 200.3771 is hereby amended to read as follows:**

200.3771 1. Except as otherwise provided in this section, any information which is contained in:

(a) Court records, including testimony from witnesses;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History, that reveals the identity of a victim of a sexual ~~assault~~ offense or an offense involving a pupil is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.

2. A defendant charged with a sexual ~~assault~~ offense or an offense involving a pupil and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose this information except, as necessary, to those persons directly involved in the preparation of the defense.

3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;

(b) The disclosure will not place the victim at risk of personal harm; and

(c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

4. Nothing in this section prohibits:

(a) Any publication or broadcast by the media concerning a sexual ~~assault~~ offense or an offense involving a pupil.

(b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:

(1) The organization or agency needs identifying information of victims to offer such services; and

(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.

5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.

**Sec. 1.4. NRS 200.3772 is hereby amended to read as follows:**

200.3772 1. A victim of a sexual ~~assault~~ offense or an offense involving a pupil may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual ~~assault~~ offense or offense involving a pupil, including, without limitation, criminal intelligence and investigative reports, court records and media releases.

2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the sexual offense ~~or offense involving a pupil~~. The form must be provided by the law enforcement agency.

3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:

(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and

(b) Notify the prosecuting attorney of the pseudonym.

➤ The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.

4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual ~~assault~~ offense or offense involving a pupil.

5. The information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The disclosure of information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.

6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual ~~assault~~ offense or offense involving a pupil or the identity of the victim is at issue.

7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:

(a) Disclosing any information contained on the form filed by a victim ~~of sexual assault~~ pursuant to this section that reveals the identity of the victim; or

(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.

**Sec. 1.5. NRS 200.3773 is hereby amended to read as follows:**

200.3773 1. A public officer or employee who has access to any records, files or other documents which include the photograph, likeness, name, address, telephone number or other fact or information that reveals the identity of a victim of a sexual ~~assault~~ offense or an offense involving a pupil shall not intentionally or knowingly disclose the identifying information to any person other than:

(a) The defendant or his attorney;

(b) A person who is directly involved in the investigation, prosecution or defense of the case;

(c) A person specifically named in a court order issued pursuant to NRS 200.3771; or

(d) A nonprofit organization or public agency approved to receive the information pursuant to NRS 200.3771.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

**Sec. 1.6. NRS 200.3774 is hereby amended to read as follows:**

200.3774 The provisions of NRS 200.3771, 200.3772 and 200.3773 do not apply if the victim of the sexual ~~assault~~ offense or offense involving a pupil voluntarily waives, in writing, the confidentiality of the information concerning the victim's identity.

**Sec. 2. 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 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

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

(b) 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.

(c) The person keeps the parole and probation officer informed 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 3 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 3 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.

(b) 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.



6. A sex offender 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.

7. 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 sex offender 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.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of 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.

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

10. *The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.*

11. 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.

~~11.1~~ 12. For the purposes of prosecution of a violation by a sex offender 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.

**Sec. 2.5.** 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.097, 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:

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

(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 parolee keeps the parole and probation officer informed of his current address.

(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.

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

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

(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.

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

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

(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,}~~ *Chief or his designee* 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.097 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 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 paragraph apply only to a parolee who is a Tier 3 offender.

(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.

(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 ~~and~~; *and*
- (f) The Chief or his designee.*

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. 3.** (Deleted by amendment.)

**Sec. 4.** The amendatory provisions of this act apply to a person who is convicted on or after October 1, 2009.