

Amendment No. CA37

Conference Committee Amendment to
Assembly Bill No. 88 Third Reprint

(BDR 15-267)

Proposed by: Conference Committee

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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.

BAW



Date: 6/1/2009

A.B. No. 88—Makes various changes relating to child pornography. (BDR 15-267)



ASSEMBLY BILL NO. 88—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to child pornography.
(BDR 15-267)

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 sexual offenses; prohibiting a person from using the Internet to ~~access~~ ***control*** child pornography; establishing a civil remedy under certain circumstances for a person who appeared in child pornography; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from using the Internet to ~~access~~ ***control*** child pornography.

Section 4 of this bill establishes a civil cause of action for a person who, while under the age of 16 years, appeared in child pornography and suffered personal or psychological injury as the result. A person who prevails in such an action may recover his actual damages, which are deemed to be at least \$150,000, plus attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an action.

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

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

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to access control such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, 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.

2. As used in this section, “sexual conduct” means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

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:

(a) Reaches 18 years of age; or

(b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,

↪ whichever occurs later.

2. *An action to recover damages pursuant to section 4 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:*

(a) The court enters a verdict in a related criminal case; or

(b) The victim reaches the age of 18 years.

3. As used in this section, “sexual abuse” has the meaning ascribed to it in NRS 432B.100.

Sec. 4. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Any person who, while under the age of 16 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an action against any person who, while over the age of 18 years, knowingly and willfully:*

(a) Promoted the film, photograph or other visual presentation;

(b) Possessed the film, photograph or other visual presentation; or

(c) Used the Internet to ~~access~~ control the film, photograph or other visual presentation, with the specific intent to view the film, photograph or other visual presentation.

2. *A plaintiff 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.*

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

6 4. It is not a defense to a cause of action under this section that a defendant
7 did not know the plaintiff or did not engage in the sexual conduct with the
8 plaintiff.

9 5. As used in this section:

10 (a) "Promote" has the meaning ascribed to it in NRS 200.700.

11 (b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus,
12 bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or
13 the penetration of any object manipulated or inserted by a person into the genital
14 or anal opening of the body of another.