

ASSEMBLY BILL NO. 75—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED DECEMBER 15, 2010

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing certain sexual offenses. (BDR 14-466)

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 crimes; revising the acts that constitute a sexual offense; revising the acts that constitute unlawful contact with a child or unlawful contact with a person with mental illness; revising the definition of “sexual offense” for various statutes relating to juvenile offenders; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law makes it unlawful under certain circumstances to engage in certain
- 2 conduct with a child under 16 years of age or a person with mental illness. (NRS
- 3 207.260) **Section 15** of this bill expands the crime of unlawful contact to include
- 4 certain contact by a person with a child or a person with mental illness with the
- 5 intent of arousing, appealing to, or gratifying the lust or passion or sexual desires of
- 6 himself or herself or the victim.
- 7 Existing law also defines the term “sexual offense” for the purposes of
- 8 requiring persons convicted of certain sexual offenses to provide biological
- 9 specimens, undergo psychosexual evaluations, register as a sex offender and
- 10 comply with certain other requirements. (NRS 179D.097) **Section 7** of this bill
- 11 revises the acts that constitute a sexual offense to include the offenses of unlawful
- 12 contact with a minor or a person with mental illness and certain other offenses
- 13 involving sexual conduct.
- 14 Finally, **sections 9-13** of this bill revise the definition of “sexual offense” for
- 15 certain juvenile offenders to include the crime of unlawful contact with a child or a
- 16 person with mental illness.



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

Section 1. NRS 171.1228 is hereby amended to read as follows:

171.1228 1. A law enforcement officer, prosecutor or other employee of a governmental entity shall not, as a condition of investigating an alleged sexual offense, request or require a victim of the alleged sexual offense to take or submit to a polygraphic examination or other similar examination that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of a person.

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

Sec. 2. NRS 176.0912 is hereby amended to read as follows:

176.0912 1. Except as otherwise provided in this section, upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.

2. Biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

(c) "Sexual offense" has the meaning ascribed to it in ~~NRS 179D.097.~~ *section 7 of this act.*

Sec. 3. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4:



1 (a) The name, social security number, date of birth and any other
2 information identifying the defendant must be submitted to the
3 Central Repository for Nevada Records of Criminal History; and

4 (b) A biological specimen must be obtained from the defendant
5 pursuant to the provisions of this section and the specimen must be
6 used for an analysis to determine the genetic markers of the
7 specimen.

8 2. If the defendant is committed to the custody of the
9 Department of Corrections, the Department of Corrections shall
10 arrange for the biological specimen to be obtained from
11 the defendant. The Department of Corrections shall provide the
12 specimen to the forensic laboratory that has been designated by the
13 county in which the defendant was convicted to conduct or oversee
14 genetic marker testing for the county pursuant to NRS 176.0917.

15 3. If the defendant is not committed to the custody of the
16 Department of Corrections, the Division shall arrange for the
17 biological specimen to be obtained from the defendant. The
18 Division shall provide the specimen to the forensic laboratory that
19 has been designated by the county in which the defendant was
20 convicted to conduct or oversee genetic marker testing for the
21 county pursuant to NRS 176.0917. Any cost that is incurred to
22 obtain a biological specimen from a defendant pursuant to this
23 subsection is a charge against the county in which the defendant was
24 convicted and must be paid as provided in NRS 176.0915.

25 4. Except as otherwise provided in subsection 5, the provisions
26 of subsection 1 apply to a defendant who is convicted of:

27 (a) A felony;

28 (b) A crime against a child as defined in NRS 179D.0357;

29 (c) A sexual offense as defined in ~~NRS 179D.097;~~ **section 7 of**
30 **this act;**

31 (d) Abuse or neglect of an older person or a vulnerable person
32 pursuant to NRS 200.5099;

33 (e) A second or subsequent offense for stalking pursuant to
34 NRS 200.575;

35 (f) An attempt or conspiracy to commit an offense listed in
36 paragraphs (a) to (e), inclusive;

37 (g) Failing to register with a local law enforcement agency as a
38 convicted person as required pursuant to NRS 179C.100, if the
39 defendant previously was:

40 (1) Convicted in this State of committing an offense listed in
41 paragraph (a), (d), (e) or (f); or

42 (2) Convicted in another jurisdiction of committing an
43 offense that would constitute an offense listed in paragraph (a), (d),
44 (e) or (f) if committed in this State;



(h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or

(i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. If it is determined that a defendant's biological specimen has previously been submitted for conviction of a prior offense, an additional sample is not required.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a misdemeanor.

Sec. 4. NRS 176.0925 is hereby amended to read as follows:

176.0925 "Sexual offense" has the meaning ascribed to it in ~~NRS 179D.097~~ *section 7 of this act*.

Sec. 5. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.



3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

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

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

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

(m) *Unlawful contact with a child or a person with mental illness pursuant to NRS 207.260, if sexually motivated;*

(n) An attempt *or conspiracy* to commit an offense listed in paragraphs (a) to ~~(4)~~ (m), inclusive, if punished as a felony; or

~~(n)~~ (o) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 6. NRS 179C.010 is hereby amended to read as follows:

179C.010 1. Except as otherwise provided in subsection 2, as used in this chapter, unless the context otherwise requires, "convicted person" means:

(a) A person convicted in the State of Nevada or convicted in any place other than the State of Nevada of two or more offenses punishable as felonies.

(b) A person convicted in the State of Nevada of an offense punishable as a category A felony.

(c) A person convicted in the State of Nevada or convicted in any place other than the State of Nevada of a crime that would constitute a category A felony if committed in this State on or after July 1, 2003.

2. For the purposes of this chapter, "convicted person" does not include:



(a) A person who has been convicted of a crime against a child, as defined in NRS 179D.0357, or a sexual offense, as defined in ~~NRS 179D.097;~~ *section 7 of this act;* or

(b) Except as otherwise provided in this chapter, a person whose conviction is or has been set aside in the manner provided by law.

Sec. 7. Chapter 179D of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Sexual offense" means any of the following offenses:

(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(b) Sexual assault pursuant to NRS 200.366.

(c) Statutory sexual seduction pursuant to NRS 200.368.

(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.

(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.

(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(k) Open or gross lewdness pursuant to NRS 201.210.

(l) Indecent or obscene exposure pursuant to NRS 201.220.

(m) Lewdness with a child pursuant to NRS 201.230.

(n) Sexual penetration of a dead human body pursuant to NRS 201.450.

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

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

(q) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(r) Unlawful contact with a child or a person with mental illness pursuant to NRS 207.260, if sexually motivated.



(s) Voluntary sexual conduct between a prisoner and another person pursuant to NRS 212.187.

(t) Abuse of a client pursuant to NRS 433.554, if sexually related.

(u) Any other offense that has an element involving a sexual act or sexual conduct with another.

(v) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (u), inclusive.

(w) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(x) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this section. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(y) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(3) A court having jurisdiction over juveniles.

2. The term does not include an offense involving consensual sexual conduct if the victim was:

(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 8. NRS 179D.010 is hereby amended to read as follows:

179D.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179D.015 to 179D.120, inclusive, **and section 7 of this act** have the meanings ascribed to them in those sections.

Sec. 9. NRS 62C.120 is hereby amended to read as follows:

62C.120 1. If a petition filed pursuant to the provisions of this title contains allegations that a child committed an unlawful act which would have been a sexual offense if committed by an adult or



1 which involved the use or threatened use of force or violence against
2 the victim, the district attorney shall provide to the victim and, if the
3 victim is less than 18 years of age, to the parent or guardian of the
4 victim, as soon as practicable after the petition is filed,
5 documentation that includes:

6 (a) A form advising the victim and the parent or guardian of the
7 victim of their rights pursuant to the provisions of this title; and

8 (b) The form or procedure that must be used to request
9 disclosure pursuant to NRS 62D.440.

10 2. As used in this section, "sexual offense" means:

11 (a) Sexual assault pursuant to NRS 200.366;

12 (b) Battery with intent to commit sexual assault pursuant to
13 NRS 200.400;

14 (c) An offense involving pornography and a minor pursuant to
15 NRS 200.710 to 200.730, inclusive;

16 (d) Open or gross lewdness pursuant to NRS 201.210;

17 (e) Indecent or obscene exposure pursuant to NRS 201.220;

18 (f) Lewdness with a child pursuant to NRS 201.230;

19 (g) Sexual penetration of a dead human body pursuant to
20 NRS 201.450;

21 (h) Luring a child or person with mental illness pursuant to NRS
22 201.560, if punishable as a felony; ~~for~~

23 (i) *Unlawful contact with a child or a person with mental*
24 *illness pursuant to NRS 207.260, if sexually motivated; or*

25 (j) An attempt to commit an offense listed in this subsection.

26 **Sec. 10.** NRS 62F.100 is hereby amended to read as follows:

27 62F.100 As used in NRS 62F.100 to 62F.150, inclusive, unless
28 the context otherwise requires, "sexual offense" means:

29 1. Sexual assault pursuant to NRS 200.366;

30 2. Battery with intent to commit sexual assault pursuant to
31 NRS 200.400;

32 3. An offense involving pornography and a minor pursuant to
33 NRS 200.710 to 200.730, inclusive;

34 4. Open or gross lewdness pursuant to NRS 201.210, if
35 punishable as a felony;

36 5. Indecent or obscene exposure pursuant to NRS 201.220, if
37 punishable as a felony;

38 6. Lewdness with a child pursuant to NRS 201.230;

39 7. Sexual penetration of a dead human body pursuant to
40 NRS 201.450;

41 8. Luring a child or person with mental illness pursuant to NRS
42 201.560, if punishable as a felony; ~~for~~

43 9. *Unlawful contact with a child or a person with mental*
44 *illness pursuant to NRS 207.260, if sexually motivated; or*



1 **10.** An attempt to commit an offense listed in this section, if
2 punishable as a felony.

3 **Sec. 11.** NRS 62H.010 is hereby amended to read as follows:

4 62H.010 1. The fingerprints of a child must be taken if the
5 child is in custody for an unlawful act that, if committed by an adult,
6 would have been:

7 (a) A felony, gross misdemeanor or sexual offense; or

8 (b) A misdemeanor and the unlawful act involved:

9 (1) The use or threatened use of force or violence against the
10 victim; or

11 (2) The possession, use or threatened use of a firearm or a
12 deadly weapon.

13 2. The fingerprints of a child who is in custody but who is not
14 subject to the provisions of subsection 1 may be taken if a law
15 enforcement officer finds latent fingerprints during the investigation
16 of an offense and the officer has reason to believe that the latent
17 fingerprints are those of the child. The officer shall use the
18 fingerprints taken from the child to make an immediate comparison
19 with the latent fingerprints. If the comparison is:

20 (a) Negative, the fingerprint card and other copies of the
21 fingerprints taken may be immediately destroyed or may be retained
22 for future use.

23 (b) Positive, the fingerprint card and other copies of the
24 fingerprints:

25 (1) Must be delivered to the juvenile court for disposition if
26 the child is referred to the juvenile court.

27 (2) May be immediately destroyed or may be retained for
28 future use if the child is not referred to the juvenile court.

29 3. Fingerprints that are taken from a child pursuant to the
30 provisions of this section:

31 (a) May be retained in a local file or a local system for the
32 automatic retrieval of fingerprints if they are retained under special
33 security measures that limit inspection of the fingerprints to law
34 enforcement officers who are conducting criminal investigations. If
35 the child from whom the fingerprints are taken subsequently is not
36 adjudicated delinquent, the parent or guardian of the child or, when
37 the child becomes at least 18 years of age, the child may petition the
38 juvenile court for the removal of the fingerprints from any local file
39 or local system.

40 (b) Must be submitted to the Central Repository if the child is
41 adjudicated delinquent for an unlawful act that would have been a
42 felony or a sexual offense if committed by an adult, and may be
43 submitted to the Central Repository for any other act. Any such
44 fingerprints submitted to the Central Repository must be submitted
45 with a description of the child and the unlawful act, if any, that the



1 child committed. The Central Repository shall retain the fingerprints
2 and information of the child under special security measures that
3 limit inspection of the fingerprints and the information to:

4 (1) Law enforcement officers who are conducting criminal
5 investigations; and

6 (2) Officers and employees of the Central Repository who
7 are assisting law enforcement officers with criminal investigations
8 or who are conducting research or performing a statistical analysis.

9 (c) Must not be submitted to the Federal Bureau of Investigation
10 unless the child is adjudicated delinquent for an unlawful act that
11 would have been a felony or a sexual offense if committed by an
12 adult.

13 4. A child who is in custody must be photographed for the
14 purpose of identification. Except as otherwise provided in this
15 subsection, the photographs of the child must be kept in the file
16 pertaining to the child under special security measures which
17 provide that the photographs may be inspected only to conduct
18 criminal investigations and photographic lineups. If the juvenile
19 court subsequently determines that the child is not delinquent, the
20 juvenile court shall order the photographs to be destroyed.

21 5. Any person who willfully violates any provision of this
22 section is guilty of a misdemeanor.

23 6. As used in this section, "sexual offense" means:

24 (a) Sexual assault pursuant to NRS 200.366;

25 (b) Statutory sexual seduction pursuant to NRS 200.368;

26 (c) Battery with intent to commit sexual assault pursuant to
27 NRS 200.400;

28 (d) An offense involving pornography and a minor pursuant to
29 NRS 200.710 to 200.730, inclusive;

30 (e) Incest pursuant to NRS 201.180;

31 (f) Solicitation of a minor to engage in acts constituting the
32 infamous crime against nature pursuant to NRS 201.195;

33 (g) Open or gross lewdness pursuant to NRS 201.210;

34 (h) Indecent or obscene exposure pursuant to NRS 201.220;

35 (i) Lewdness with a child pursuant to NRS 201.230;

36 (j) Sexual penetration of a dead human body pursuant to
37 NRS 201.450;

38 (k) Luring a child or person with mental illness pursuant to NRS
39 201.560, if punishable as a felony;

40 (l) *Unlawful contact with a child or a person with mental*
41 *illness pursuant to NRS 207.260, if sexually motivated;*

42 (m) An attempt to commit an offense listed in paragraphs (a) to
43 ~~(k)~~ (l), inclusive; or

44 ~~(m)~~ (n) An offense that is determined to be sexually
45 motivated pursuant to NRS 175.547.



Sec. 12. NRS 62H.220 is hereby amended to read as follows:

62H.220 1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:

(a) The information listed in NRS 62H.210;

(b) The name of the child; and

(c) All information concerning programs of treatment in which the child participated that:

(1) Were directly related to the delinquent act committed by the child; or

(2) Were designed or utilized to prevent the commission of another such act by the child in the future.

2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the Director of the Department of Health and Human Services for use in the program established pursuant to NRS 62H.300, 62H.310 and 62H.320.

3. Except as otherwise provided in NRS 239.0115, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used for a purpose other than that provided for in this section and NRS 62H.320.

4. As used in this section, "sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

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

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

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

(l) ~~[Annoyance or molestation of a minor]~~ **Unlawful contact with a child or a person with mental illness** pursuant to NRS 207.260 ~~[]~~, **if sexually motivated;**



(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.

Sec. 13. NRS 62H.310 is hereby amended to read as follows:

62H.310 As used in this section and NRS 62H.300 and 62H.320:

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

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

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

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

(l) *Unlawful contact with a child or a person with mental illness pursuant to NRS 207.260, if sexually motivated;*

~~(k)~~ (m) An attempt to commit an offense listed in paragraphs (a) to ~~(k)~~ (l), inclusive;

~~(m)~~ (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

~~(n)~~ (o) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection.

Sec. 14. NRS 118A.335 is hereby amended to read as follows:

118A.335 1. Except as otherwise provided in subsection 6, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older may not employ any person who will work 36 hours or more per week and who will have access to all dwelling units to perform work on the premises unless the person



1 has obtained a work card issued pursuant to subsection 2 by the
2 sheriff of the county in which the dwelling units are located and
3 renewed that work card as necessary.

4 2. The sheriff of a county shall issue a work card to each
5 person who is required by this section to obtain a work card and
6 who complies with the requirements established by the sheriff for
7 the issuance of such a card. A work card issued pursuant to this
8 section must be renewed:

9 (a) Every 5 years; and

10 (b) Whenever the person changes his or her employment to
11 perform work for an employer other than the employer for which the
12 person's current work card was issued.

13 3. Except as otherwise provided in subsection 4, if the sheriff
14 of a county requires an applicant for a work card to be investigated:

15 (a) The applicant must submit with his or her application a
16 complete set of his or her fingerprints and written permission
17 authorizing the sheriff to forward the fingerprints to the Central
18 Repository for Nevada Records of Criminal History for submission
19 to the Federal Bureau of Investigation for its report.

20 (b) The sheriff shall submit the fingerprints to the Central
21 Repository for Nevada Records of Criminal History for submission
22 to the Federal Bureau of Investigation to determine the criminal
23 history of the applicant.

24 (c) The sheriff may issue a temporary work card pending the
25 determination of the criminal history of the applicant by the Federal
26 Bureau of Investigation.

27 4. The sheriff of a county shall not require an investigation of
28 the criminal history of an employee or independent contractor of an
29 agency or facility governed by NRS 449.176 to 449.188, inclusive,
30 who has had his or her fingerprints submitted to the Central
31 Repository for Nevada Records of Criminal History pursuant to
32 NRS 449.179 for an investigation of his or her criminal history
33 within the immediately preceding 6 months.

34 5. The sheriff shall not issue a work card to any person who:

35 (a) Has been convicted of a category A, B or C felony or of a
36 crime in another state which would be a category A, B or C felony if
37 committed in this State;

38 (b) Has been convicted of a sexual offense;

39 (c) Has been convicted of a crime against any person who is 60
40 years of age or older or against a vulnerable person for which an
41 additional term of imprisonment may be imposed pursuant to NRS
42 193.167 or the laws of any other jurisdiction;

43 (d) Has been convicted of a battery punishable as a gross
44 misdemeanor; or

45 (e) Within the immediately preceding 5 years:



- 1 (1) Has been convicted of a theft; or
- 2 (2) Has been convicted of a violation of any state or federal
- 3 law regulating the possession, distribution or use of a controlled
- 4 substance.

5 6. The following persons are not required to obtain a work card

6 pursuant to this section:

7 (a) A person who holds a permit to engage in property

8 management pursuant to chapter 645 of NRS.

9 (b) An independent contractor. As used in this paragraph,

10 "independent contractor" means a person who performs services for

11 a fixed price according to the person's own methods and without

12 subjection to the supervision or control of the landlord, except as to

13 the results of the work, and not as to the means by which the

14 services are accomplished.

15 (c) An offender in the course and scope of his or her

16 employment in a work program directed by the warden, sheriff,

17 administrator or other person responsible for administering a prison,

18 jail or other detention facility.

19 (d) A person performing work through a court-assigned

20 restitution or community-service program.

21 7. If the sheriff does not issue a work card to a person because

22 the information received from the Central Repository for Nevada

23 Records of Criminal History indicates that the person has been

24 convicted of a crime listed in subsection 5 and the person believes

25 that the information provided by the Central Repository is incorrect,

26 the person may immediately inform the sheriff. If the sheriff is so

27 informed, the sheriff shall give the person at least 30 days in which

28 to correct the information before terminating the temporary work

29 card issued pursuant to subsection 3.

30 8. As used in this section, unless the context otherwise

31 requires:

32 (a) "Sexual offense" has the meaning ascribed to it in ~~NRS~~

33 ~~179D.097.~~ *section 7 of this act.*

34 (b) "Vulnerable person" has the meaning ascribed to it in

35 NRS 200.5092.

36 **Sec. 15.** NRS 207.260 is hereby amended to read as follows:

37 207.260 1. A person who, without lawful authority, willfully

38 and maliciously engages in a course of conduct with a child who is

39 under 16 years of age and who is at least 5 years younger than the

40 person ~~[which]~~ :

41 *(a) With the intent of arousing, appealing to, or gratifying the*

42 *lust or passions or sexual desires of himself or herself or of the*

43 *child; or*

44 *(b) Which* would cause a reasonable child of like age to feel

45 terrorized, frightened, intimidated or harassed, and which actually



1 causes the child to feel terrorized, frightened, intimidated or
2 harassed,

3 ➔ commits the crime of unlawful contact with a child.

4 2. A person who, without lawful authority, willfully and
5 maliciously engages in a course of conduct with a person with
6 mental illness **[which]** :

7 *(a) With the intent of arousing, appealing to, or gratifying the*
8 *lust or passions or sexual desires of himself or herself or of the*
9 *person with mental illness; or*

10 *(b) Which* would cause a person with mental illness of like
11 mental condition to feel terrorized, frightened, intimidated or
12 harassed, and which actually causes the person with mental illness
13 to feel terrorized, frightened, intimidated or harassed,

14 ➔ commits the crime of unlawful contact with a person with mental
15 illness.

16 3. The penalties provided in this section do not preclude the
17 victim from seeking any other legal remedy available.

18 4. Unless a greater penalty is provided by specific statute, a
19 person who commits the crime of unlawful contact with a child or
20 unlawful contact with a person with mental illness is guilty of:

21 (a) For the first offense, a gross misdemeanor.

22 (b) For the second and each subsequent offense, a category B
23 felony and shall be punished by imprisonment in the state prison for
24 a minimum term of not less than 1 year and a maximum term of not
25 more than 6 years, and may be further punished by a fine of not
26 more than \$5,000.

27 5. As used in this section:

28 (a) "Course of conduct" means a pattern of conduct which
29 consists of a series of acts over time that evidences a continuity of
30 purpose directed at a specific person.

31 (b) "Person with mental illness" means a person who has any
32 mental dysfunction leading to impaired ability to maintain himself
33 or herself and to function effectively in his or her life situation
34 without external support.

35 (c) "Without lawful authority" includes acts that are initiated or
36 continued without the victim's consent. The term does not include
37 acts that are otherwise protected or authorized by constitutional or
38 statutory law, regulation or order of a court of competent
39 jurisdiction, including, but not limited to:

40 (1) Picketing which occurs during a strike, work stoppage or
41 any other labor dispute.

42 (2) The activities of a reporter, photographer, camera
43 operator or other person while gathering information for
44 communication to the public if that person is employed or engaged
45 by or has contracted with a newspaper, periodical, press association



1 or radio or television station and is acting solely within that
2 professional capacity.

3 (3) The activities of a person that are carried out in the
4 normal course of his or her lawful employment.

5 (4) Any activities carried out in the exercise of the
6 constitutionally protected rights of freedom of speech and assembly.

7 **Sec. 16.** NRS 391.314 is hereby amended to read as follows:

8 391.314 1. If a superintendent has reason to believe that
9 cause exists for the dismissal of a licensed employee and the
10 superintendent is of the opinion that the immediate suspension of
11 the employee is necessary in the best interests of the pupils in the
12 district, the superintendent may suspend the employee without
13 notice and without a hearing. Notwithstanding the provisions of
14 NRS 391.312, a superintendent may suspend a licensed employee
15 who has been officially charged but not yet convicted of a felony or
16 a crime involving moral turpitude or immorality. If the charge is
17 dismissed or if the employee is found not guilty, the employee must
18 be reinstated with back pay, plus interest, and normal seniority. The
19 superintendent shall notify the employee in writing of the
20 suspension.

21 2. Within 5 days after a suspension becomes effective, the
22 superintendent shall begin proceedings pursuant to the provisions of
23 NRS 391.312 to 391.3196, inclusive, to effect the employee's
24 dismissal. The employee is entitled to continue to receive his or her
25 salary and other benefits after the suspension becomes effective
26 until the date on which the dismissal proceedings are commenced.
27 The superintendent may recommend that an employee who has been
28 charged with a felony or a crime involving immorality be dismissed
29 for another ground set forth in NRS 391.312.

30 3. If sufficient grounds for dismissal do not exist, the employee
31 must be reinstated with full compensation, plus interest.

32 4. A licensed employee who furnishes to the school district a
33 bond or other security which is acceptable to the board as a
34 guarantee that the employee will repay any amounts paid to him or
35 her pursuant to this subsection as salary during a period of
36 suspension is entitled to continue to receive his or her salary from
37 the date on which the dismissal proceedings are commenced until
38 the decision of the board or the report of the hearing officer, if the
39 report is final and binding. The board shall not unreasonably refuse
40 to accept security other than a bond. An employee who receives
41 salary pursuant to this subsection shall repay it if the employee is
42 dismissed or not reemployed as a result of a decision of the board or
43 a report of a hearing officer.

44 5. A licensed employee who is convicted of a crime which
45 requires registration pursuant to NRS 179D.010 to 179D.550,



1 inclusive, **and section 7 of this act**, or is convicted of an act
2 forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or
3 207.260 forfeits all rights of employment from the date of his or her
4 arrest.

5 6. A licensed employee who is convicted of any crime and who
6 is sentenced to and serves any sentence of imprisonment forfeits all
7 rights of employment from the date of his or her arrest or the date on
8 which his or her employment terminated, whichever is later.

9 7. A licensed employee who is charged with a felony or a
10 crime involving immorality or moral turpitude and who waives his
11 or her right to a speedy trial while suspended may receive no more
12 than 12 months of back pay and seniority upon reinstatement if the
13 employee is found not guilty or the charges are dismissed, unless
14 proceedings have been begun to dismiss the employee upon one of
15 the other grounds set forth in NRS 391.312.

16 8. A superintendent may discipline a licensed employee by
17 suspending the employee with loss of pay at any time after a hearing
18 has been held which affords the due process provided for in this
19 chapter. The grounds for suspension are the same as the grounds
20 contained in NRS 391.312. An employee may be suspended more
21 than once during the employee's contract year, but the total number
22 of days of suspension may not exceed 20 in 1 contract year. Unless
23 circumstances require otherwise, the suspensions must be
24 progressively longer.

25 **Sec. 17.** NRS 458.300 is hereby amended to read as follows:

26 458.300 Subject to the provisions of NRS 458.290 to 458.350,
27 inclusive, an alcoholic or a drug addict who has been convicted of a
28 crime is eligible to elect to be assigned by the court to a program of
29 treatment for the abuse of alcohol or drugs pursuant to NRS 453.580
30 before he or she is sentenced unless:

31 1. The crime is:

32 (a) A crime against the person punishable as a felony or gross
33 misdemeanor as provided in chapter 200 of NRS;

34 (b) A crime against a child as defined in NRS 179D.0357;

35 (c) A sexual offense as defined in ~~NRS 179D.097;~~ **section 7 of**
36 **this act**; or

37 (d) An act which constitutes domestic violence as set forth in
38 NRS 33.018;

39 2. The crime is that of trafficking of a controlled substance;

40 3. The crime is a violation of NRS 484C.110, 484C.120,
41 484C.130 or 484C.430;

42 4. The alcoholic or drug addict has a record of two or more
43 convictions of a crime described in subsection 1 or 2, a similar
44 crime in violation of the laws of another state, or of three or more
45 convictions of any felony;



5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;

6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election; or

7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding 5 years.

Sec. 18. NRS 458A.210 is hereby amended to read as follows:

458A.210 Subject to the provisions of NRS 458A.200 to 458A.260, inclusive, a problem gambler who has been convicted of a crime and who committed the crime in furtherance or as a result of problem gambling is eligible to elect to be assigned by the court to a program for the treatment of problem gambling before he or she is sentenced unless:

1. The crime is:

(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in ~~NRS 179D.097~~ **section 7 of this act**; or

(d) An act which constitutes domestic violence as set forth in NRS 33.018;

2. The problem gambler has a record of two or more convictions of a crime described in subsection 1 or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

3. Other criminal proceedings alleging commission of a felony are pending against the problem gambler;

4. The problem gambler is on probation or parole, except that the problem gambler is eligible to make the election if the appropriate probation or parole authority consents to the election or the court finds that the problem gambler is eligible to make the election after considering any objections made by the appropriate probation or parole authority; or

5. The problem gambler has previously been assigned by a court to a program for the treatment of problem gambling, except that the problem gambler is eligible to make the election if the court, in its discretion, finds that the problem gambler is eligible to make such an election.

Sec. 19. NRS 179D.097 is hereby repealed.



TEXT OF REPEALED SECTION

179D.097 “Sexual offense” defined.

1. “Sexual offense” means any of the following offenses:

(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(b) Sexual assault pursuant to NRS 200.366.

(c) Statutory sexual seduction pursuant to NRS 200.368.

(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.

(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.

(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(k) Open or gross lewdness pursuant to NRS 201.210.

(l) Indecent or obscene exposure pursuant to NRS 201.220.

(m) Lewdness with a child pursuant to NRS 201.230.

(n) Sexual penetration of a dead human body pursuant to NRS 201.450.

(o) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(p) Any other offense that has an element involving a sexual act or sexual conduct with another.

(q) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (p), inclusive.

(r) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.



(s) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(t) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subsection includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(3) A court having jurisdiction over juveniles.

2. The term does not include an offense involving consensual sexual conduct if the victim was:

(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

