

ASSEMBLY BILL NO. 265—ASSEMBLYMEN LIVERMORE, HAMBRICK;
ELLISON, HARDY, KIRNER, WHEELER AND WOODBURY

MARCH 15, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the offense of sexual conduct between certain employees of a school or volunteers at a school and a pupil. (BDR 14-29)

FISCAL NOTE: Effect on Local Government: No.
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; providing that certain employees of a school or volunteers at a school who are convicted of engaging in sexual conduct with a pupil are subject to various statutory provisions relating to sex offenders; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires a court to include a special sentence of lifetime supervision for any person convicted of certain sexual offenses; and (2) provides certain conditions of lifetime supervision. (NRS 176.0931, 213.1243) **Sections 1 and 10** of this bill add an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil to the list of sexual offenses that require a sentence of lifetime supervision and for which certain conditions of lifetime supervision apply.

Existing law: (1) requires a person convicted of certain sexual offenses to undergo a psychosexual evaluation as part of the presentence investigation and report prepared by the Division of Parole and Probation of the Department of Public Safety; and (2) prohibits the court from granting probation to or suspending the sentence of a person convicted of certain sexual offenses, unless the person who conducts the psychosexual evaluation certifies that the person convicted of the sexual offense does not represent a high risk to reoffend. (NRS 176.133, 176.135, 176A.110) **Sections 2 and 3** of this bill add an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil to the list of sexual offenses which require a psychosexual evaluation as part of the presentence investigation and report and which require a certification that the person convicted does not represent a high risk to reoffend before the person may be granted probation or have his or her sentence suspended.



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Existing law requires the prosecuting attorney, sheriff or chief of police, upon request, to inform a victim or witness of certain sexual offenses: (1) when the defendant is released from custody at any time before or during the defendant's trial; and (2) of the final disposition of the case involving the victim or witness. (NRS 178.5698) **Section 4** of this bill adds to the list of sexual offenses that are subject to such requirements concerning notification of a victim or witness an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

Existing law allows a person convicted of certain offenses to petition the court for the sealing of all records relating to the conviction, but does not authorize the sealing of records relating to a conviction of certain sexual offenses. (NRS 179.245) **Section 5** of this bill adds to the list of sexual offenses for which the sealing of records is not authorized an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

Existing law also defines the term "sexual offense" for the purpose of requiring persons convicted of certain sexual offenses to register as a sex offender, to comply with certain mandatory conditions of probation or parole and to fulfill certain other requirements. (NRS 118A.335, 176A.410, 179D.097, 213.1099, 213.1245) **Section 6** of this bill revises the list of sexual offenses to which these statutory provisions apply to include an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

Existing law establishes three tier levels, based on the severity of the crime, for purposes of determining the period in which a sex offender or an offender convicted of a crime against a child is subject to registration and community notification. (NRS 179D.113-179D.117) **Section 7** of this bill makes a person a Tier II offender if the person is convicted of an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

Existing law provides an enhanced penalty for certain repeat offenders who are convicted of sexual assault or lewdness with a child under 14 years. (NRS 200.366, 201.230) **Section 9** of this bill adds to the list of offenses for which an enhanced penalty is provided an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

Existing law provides that the Board of Parole Commissioners may not grant parole to or continue the parole of a prisoner who has been convicted of certain sexual offenses unless a panel first evaluates the prisoner's likelihood to reoffend in a sexual manner. (NRS 213.1214) **Section 11** of this bill adds to the list of sexual offenses for which such an evaluation is required an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil.

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

Section 1. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.



3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after the person's last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless the person is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

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

(III) A sexual offense as defined in NRS 179D.097;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;

(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.



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

(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

(c) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230, ~~for~~ 201.450, **201.540** or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.161, 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) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;*

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

~~(m)~~ (n) An attempt to commit an offense listed in paragraphs (a) to ~~(l)~~, 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. 3. NRS 176A.110 is hereby amended to read as follows:

176A.110 1. The court shall not grant probation to or suspend the sentence of a person convicted of an offense listed in subsection 3 unless:

(a) If a psychosexual evaluation of the person is required pursuant to NRS 176.139, the person who conducts the psychosexual evaluation certifies in the report prepared pursuant to NRS 176.139 that the person convicted of the offense does not represent a high risk to reoffend based upon a currently accepted standard of assessment; or

(b) If a psychosexual evaluation of the person is not required pursuant to NRS 176.139, a psychologist licensed to practice in this State who is trained to conduct psychosexual evaluations or a psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology, Inc., and is trained to conduct psychosexual evaluations certifies in a written report to the court that the person convicted of the offense does not represent a high risk to reoffend based upon a currently accepted standard of assessment.

2. This section does not create a right in any person to be certified or to continue to be certified. No person may bring a cause



1 of action against the State, its political subdivisions, or the agencies,
2 boards, commissions, departments, officers or employees of the
3 State or its political subdivisions for not certifying a person pursuant
4 to this section or for refusing to consider a person for certification
5 pursuant to this section.

6 3. The provisions of this section apply to a person convicted of
7 any of the following offenses:

8 (a) Attempted sexual assault of a person who is 16 years of age
9 or older pursuant to NRS 200.366.

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

11 (c) Battery with intent to commit sexual assault pursuant to
12 NRS 200.400.

13 (d) Abuse or neglect of a child pursuant to NRS 200.508.

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

16 (f) Incest pursuant to NRS 201.180.

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

19 (h) Open or gross lewdness pursuant to NRS 201.210.

20 (i) Indecent or obscene exposure pursuant to NRS 201.220.

21 (j) Sexual penetration of a dead human body pursuant to
22 NRS 201.450.

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

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

27 ~~[(b)]~~ (m) A violation of NRS 207.180.

28 ~~[(m)]~~ (n) An attempt to commit an offense listed in paragraphs
29 (b) to ~~[(b)]~~ (m), inclusive.

30 ~~[(n)]~~ (o) Coercion or attempted coercion that is determined to be
31 sexually motivated pursuant to NRS 207.193.

32 **Sec. 4.** NRS 178.5698 is hereby amended to read as follows:

33 178.5698 1. The prosecuting attorney, sheriff or chief of
34 police shall, upon the request of a victim or witness, inform the
35 victim or witness:

36 (a) When the defendant is released from custody at any time
37 before or during the trial, including, without limitation, when the
38 defendant is released pending trial or subject to electronic
39 supervision;

40 (b) If the defendant is so released, the amount of bail required, if
41 any; and

42 (c) Of the final disposition of the criminal case in which the
43 victim or witness was directly involved.

44 2. A request for information pursuant to subsection 1 must be
45 made:



- 1 (a) In writing; or
- 2 (b) By telephone through an automated or computerized system
- 3 of notification, if such a system is available.
- 4 3. If an offender is convicted of a sexual offense or an offense
- 5 involving the use or threatened use of force or violence against the
- 6 victim, the court shall provide:
- 7 (a) To each witness, documentation that includes:
- 8 (1) A form advising the witness of the right to be notified
- 9 pursuant to subsection 5;
- 10 (2) The form that the witness must use to request notification
- 11 in writing; and
- 12 (3) The form or procedure that the witness must use to
- 13 provide a change of address after a request for notification has been
- 14 submitted.
- 15 (b) To each person listed in subsection 4, documentation that
- 16 includes:
- 17 (1) A form advising the person of the right to be notified
- 18 pursuant to subsection 5 or 6 and NRS 176.015, 176A.630,
- 19 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095
- 20 and 213.131;
- 21 (2) The forms that the person must use to request
- 22 notification; and
- 23 (3) The forms or procedures that the person must use to
- 24 provide a change of address after a request for notification has been
- 25 submitted.
- 26 4. The following persons are entitled to receive documentation
- 27 pursuant to paragraph (b) of subsection 3:
- 28 (a) A person against whom the offense is committed.
- 29 (b) A person who is injured as a direct result of the commission
- 30 of the offense.
- 31 (c) If a person listed in paragraph (a) or (b) is under the age of
- 32 18 years, each parent or guardian who is not the offender.
- 33 (d) Each surviving spouse, parent and child of a person who is
- 34 killed as a direct result of the commission of the offense.
- 35 (e) A relative of a person listed in paragraphs (a) to (d),
- 36 inclusive, if the relative requests in writing to be provided with the
- 37 documentation.
- 38 5. Except as otherwise provided in subsection 6, if the offense
- 39 was a felony and the offender is imprisoned, the warden of the
- 40 prison shall, if the victim or witness so requests in writing and
- 41 provides a current address, notify the victim or witness at that
- 42 address when the offender is released from the prison.
- 43 6. If the offender was convicted of a violation of subsection 3
- 44 of NRS 200.366 or a violation of subsection 1, paragraph (a) of



subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;

(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides a current address; and

(c) The victim, if the victim will be 18 years of age or older at the time of the release and has provided a current address,

before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by the failure to give any notice required pursuant to this section if no address was provided to the warden or if the address provided is inaccurate or not current.

8. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

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

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

(5) Incest pursuant to NRS 201.180;

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

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

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

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

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

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

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

~~(12)~~ (13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

~~(13)~~ (14) An attempt to commit an offense listed in this paragraph.

Sec. 5. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:



1 (a) A category A or B felony after 15 years from the date of
2 release from actual custody or discharge from parole or probation,
3 whichever occurs later;

4 (b) A category C or D felony after 12 years from the date of
5 release from actual custody or discharge from parole or probation,
6 whichever occurs later;

7 (c) A category E felony after 7 years from the date of release
8 from actual custody or discharge from parole or probation,
9 whichever occurs later;

10 (d) Any gross misdemeanor after 7 years from the date of
11 release from actual custody or discharge from probation, whichever
12 occurs later;

13 (e) A violation of NRS 484C.110 or 484C.120 other than a
14 felony, or a battery which constitutes domestic violence pursuant to
15 NRS 33.018 other than a felony, after 7 years from the date of
16 release from actual custody or from the date when the person is no
17 longer under a suspended sentence, whichever occurs later; or

18 (f) Any other misdemeanor after 2 years from the date of release
19 from actual custody or from the date when the person is no longer
20 under a suspended sentence, whichever occurs later.

21 2. A petition filed pursuant to subsection 1 must:

22 (a) Be accompanied by current, verified records of the
23 petitioner's criminal history received from:

24 (1) The Central Repository for Nevada Records of Criminal
25 History; and

26 (2) The local law enforcement agency of the city or county in
27 which the conviction was entered;

28 (b) Include a list of any other public or private agency,
29 company, official or other custodian of records that is reasonably
30 known to the petitioner to have possession of records of the
31 conviction and to whom the order to seal records, if issued, will be
32 directed; and

33 (c) Include information that, to the best knowledge and belief of
34 the petitioner, accurately and completely identifies the records to be
35 sealed.

36 3. Upon receiving a petition pursuant to this section, the court
37 shall notify the law enforcement agency that arrested the petitioner
38 for the crime and:

39 (a) If the person was convicted in a district court or justice court,
40 the prosecuting attorney for the county; or

41 (b) If the person was convicted in a municipal court, the
42 prosecuting attorney for the city.

43 ➡ The prosecuting attorney and any person having relevant
44 evidence may testify and present evidence at the hearing on the
45 petition.



4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) 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.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

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

(5) 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 paragraph.

(6) 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 paragraph.

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

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



(9) Incest pursuant to NRS 201.180.

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

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

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

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

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

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

~~(16)~~ (17) An attempt to commit an offense listed in subparagraphs (1) to ~~(15)~~ (16), inclusive.

Sec. 6. NRS 179D.097 is hereby amended to read as follows:

179D.097 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) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

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

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

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

~~(t)~~ (t) 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.

~~(u)~~ (u) 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. 7. NRS 179D.115 is hereby amended to read as follows:

179D.115 "Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, whose crime against a child is punishable by imprisonment for more than 1 year or whose sexual offense:

1. If committed against a child, constitutes:

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



(b) Luring a child pursuant to NRS 201.560, if punishable as a felony;

~~(b)~~ (c) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

~~(e)~~ (d) An offense involving pandering or prostitution pursuant to NRS 201.300 to 201.340, inclusive;

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

~~(e)~~ (f) Any other offense that is comparable to or more severe than the offenses described in 42 U.S.C. § 16911(3);

2. Involves an attempt or conspiracy to commit any offense described in subsection 1;

3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court; or

(b) A court of the United States or the Armed Forces of the United States; or

4. Is committed after the person becomes a Tier I offender if any of the person's sexual offenses constitute an offense punishable by imprisonment for more than 1 year.

Sec. 8. NRS 179D.495 is hereby amended to read as follows:

179D.495 If a person who is required to register pursuant to NRS 179D.010 to 179D.550, inclusive, has been convicted of an offense described in paragraph ~~(e)~~ (q) of subsection 1 of NRS 179D.097, paragraph ~~(e)~~ (f) of subsection 1 or subsection 3 of NRS 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central Repository shall determine whether the person is required to register as a Tier I offender, Tier II offender or Tier III offender.

Sec. 9. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or



(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,
➔ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

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

(c) Sado-masochistic abuse pursuant to NRS 201.262; ~~for~~

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

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

Sec. 10. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, unless the context otherwise requires:



- 1 1. "Board" means the State Board of Parole Commissioners.
- 2 2. "Chief" means the Chief Parole and Probation Officer.
- 3 3. "Division" means the Division of Parole and Probation of
- 4 the Department of Public Safety.
- 5 4. "Residential confinement" means the confinement of a
- 6 person convicted of a crime to his or her place of residence under
- 7 the terms and conditions established by the Board.
- 8 5. "Sex offender" means any person who has been or is
- 9 convicted of a sexual offense.
- 10 6. "Sexual offense" means:
- 11 (a) A violation of NRS 200.366, subsection 4 of NRS 200.400,
- 12 NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS
- 13 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of
- 14 subsection 1 of NRS 201.195, NRS 201.230, ~~201.450~~, **201.540**
- 15 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of
- 16 subsection 5 of NRS 201.560;
- 17 (b) An attempt to commit any offense listed in paragraph (a); or
- 18 (c) An act of murder in the first or second degree, kidnapping in
- 19 the first or second degree, false imprisonment, burglary or invasion
- 20 of the home if the act is determined to be sexually motivated at a
- 21 hearing conducted pursuant to NRS 175.547.
- 22 7. "Standards" means the objective standards for granting or
- 23 revoking parole or probation which are adopted by the Board or the
- 24 Chief.
- 25 **Sec. 11.** NRS 213.1214 is hereby amended to read as follows:
- 26 213.1214 1. The Board shall not grant parole to or continue
- 27 the parole of a prisoner who has served, is serving or has yet to
- 28 serve a sentence on his or her current term of imprisonment for
- 29 having been convicted of an offense listed in subsection 8 unless a
- 30 panel consisting of:
- 31 (a) The Administrator of the Division of Mental Health and
- 32 Developmental Services of the Department of Health and Human
- 33 Services or his or her designee;
- 34 (b) The Director of the Department of Corrections or his or her
- 35 designee; and
- 36 (c) A psychologist licensed to practice in this State or a
- 37 psychiatrist licensed to practice medicine in this State,
- 38 ↪ evaluates the prisoner, within 120 days before a hearing to
- 39 consider granting or continuing his or her parole, using a currently
- 40 accepted standard of assessment to determine the prisoner's
- 41 likelihood to reoffend in a sexual manner. The panel shall provide a
- 42 report of its evaluation to the Board before the hearing.
- 43 2. The Board may require the panel to conduct an evaluation of
- 44 a prisoner who is a sex offender if an evaluation may assist the
- 45 Board in determining whether parole should be granted or



1 continued. The panel shall provide a report of its evaluation to the
2 Board before the hearing to consider granting or continuing the
3 prisoner's parole.

4 3. This section does not create a right in any prisoner to be
5 evaluated or reevaluated more frequently than the prisoner's
6 regularly scheduled parole hearings or under a current or previous
7 standard of assessment and does not restrict the panel from
8 conducting additional evaluations of a prisoner if such evaluations
9 may assist the Board in determining whether parole should be
10 granted or continued. No cause of action may be brought against the
11 State, its political subdivisions, or the agencies, boards,
12 commissions, departments, officers or employees of the State or its
13 political subdivisions for evaluating, not evaluating or considering
14 or relying on an evaluation of a prisoner, if such decisions or actions
15 are made or conducted in compliance with the procedures set forth
16 in this section.

17 4. The panel shall adopt regulations pertaining to the
18 evaluation of prisoners subject to the provisions of this section to
19 determine a prisoner's risk to reoffend in a sexual manner. The
20 regulations must be adopted in accordance with the provisions of
21 chapter 233B of NRS and must be codified in the Nevada
22 Administrative Code.

23 5. The regulations adopted pursuant to subsection 4 must
24 require that:

25 (a) The evaluation be based on currently accepted standards of
26 assessment designed to determine the risk of an offender to reoffend
27 in a sexual manner;

28 (b) The report of the evaluation contain a statement rating the
29 prisoner as a low, moderate or high risk to reoffend in a sexual
30 manner; and

31 (c) If the report of the evaluation varies from the standard of
32 assessment, the panel include a written statement of any mitigating
33 or aggravating factors which justified such deviation.

34 6. The panel shall:

35 (a) Review the standards of assessment and procedures adopted
36 by regulation at least once every 3 years; and

37 (b) Make a finding regarding the validity of the use of any
38 standard of assessment.

39 7. If the panel finds that a standard of assessment is ineffective,
40 or another standard of assessment is more effective, in predicting
41 whether a prisoner may reoffend in a sexual manner, the panel may
42 discontinue the use of the current standard of assessment and adopt
43 a new standard of assessment that is determined to be more
44 effective.



8. The provisions of this section apply to a prisoner convicted of any of the following offenses:

- (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) Abuse or neglect 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.
- (h) Open or gross lewdness pursuant to NRS 201.210.
- (i) Indecent or obscene exposure pursuant to NRS 201.220.
- (j) Lewdness with a child pursuant to NRS 201.230.
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450.

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

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

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

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

~~(o)~~ (p) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

9. The Board may adopt by regulation the manner in which the Board will consider an evaluation prepared pursuant to this section in conjunction with the standards adopted by the Board pursuant to NRS 213.10885.

10. Meetings of a panel pursuant to this section must be conducted in accordance with the provisions of chapter 241 of NRS.

11. As used in this section:

(a) "Current term of imprisonment" means one or more sentences being served concurrently or consecutively with the sentence first imposed.

(b) "Reoffend in a sexual manner" means to commit any offense listed in subsection 8.

(c) "Sex offender" means a person who, after July 1, 1956, is or has been:

- (1) Convicted of a sexual offense; or



(2) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subparagraph ~~19~~ 20 of paragraph (d).

↳ The term includes, but is not limited to, a sexually violent predator or a nonresident sex offender who is a student or worker within this State.

(d) "Sexual offense" means any of the following offenses:

(1) 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.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368.

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

(5) 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 paragraph.

(6) 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 paragraph.

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

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

(9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

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

~~(16)~~ (17) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to ~~(15)~~, (16), inclusive.

~~(17)~~ (18) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~(18)~~ (19) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this



1 paragraph. This subparagraph includes, but is not limited to, an
2 offense prosecuted in:

3 (I) A tribal court.

4 (II) A court of the United States or the Armed Forces of
5 the United States.

6 ~~(19)~~ (20) An offense of a sexual nature committed in
7 another jurisdiction, whether or not the offense would be an offense
8 listed in this paragraph, if the person who committed the offense
9 resides or has resided or is or has been a student or worker in any
10 jurisdiction in which the person is or has been required by the laws
11 of that jurisdiction to register as a sex offender because of the
12 offense. This subparagraph includes, but is not limited to, an offense
13 prosecuted in:

14 (I) A tribal court.

15 (II) A court of the United States or the Armed Forces of
16 the United States.

17 (III) A court having jurisdiction over juveniles.

18 ➔ The term does not include an offense involving consensual sexual
19 conduct if the victim was an adult, unless the adult was under the
20 custodial authority of the offender at the time of the offense, or if
21 the victim was at least 13 years of age and the offender was not
22 more than 4 years older than the victim at the time of the
23 commission of the offense.

24 **Sec. 12.** The amendatory provisions of:

25 1. Sections 1 to 4, inclusive, and 9 of this act apply to offenses
26 committed on or after October 1, 2013.

27 2. Sections 5 to 8, inclusive, 10 and 11 of this act apply to
28 offenses committed before, on or after October 1, 2013.

