

Amendment No. 340

Senate Amendment to Senate Bill No. 414

(BDR 15-70)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	☐	Lost	☐	_____		Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____		Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____		Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SRT/BFG



Date: 4/15/2013

S.B. No. 414—Prohibits transmitting or distributing certain violent images involving a child under certain circumstances. (BDR 15-70)



SENATE BILL NO. 414—COMMITTEE ON JUDICIARY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Prohibits transmitting or distributing certain ~~violent~~ images **of bullying** involving a child under certain circumstances. (BDR 15-70)

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: No.

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

AN ACT relating to juveniles; prohibiting a minor from transmitting or distributing certain images of ~~a violent offense~~ **bullying** committed against another minor under certain circumstances; ~~revising the definition of “cyber bullying”;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill prohibits a minor from knowingly and willfully using an electronic communication device, such as a cell phone, to transmit or distribute, or otherwise knowingly and willfully transmitting or distributing, an image of ~~a violent offense~~ **bullying** committed against another minor for the purpose of encouraging, furthering or promoting ~~such an offense~~ **bullying** or harming the minor. A minor who violates this provision is considered: (1) for a first violation, a child in need of supervision for the purposes of the laws governing juvenile justice; and (2) for a second or subsequent violation, to have committed a delinquent act.

~~Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber bullying, harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 288.121-288.129) Section 3 of this bill revises the definition of “cyber bullying” to include the use of electronic communication by a minor to transmit or distribute an image of a violent offense committed against another minor.~~

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

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

1. A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute, or otherwise knowingly and willfully transmit or distribute, an image of ~~fa violent offense~~ bullying committed against a minor to another person with the intent to encourage, further or promote ~~such an offense~~ bullying or to cause harm to the minor.

2. A minor who violates subsection 1:

(a) For the first violation, is a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(b) For the second or a subsequent violation, commits a delinquent act, and the court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult.

3. For the purposes of this section, to determine whether a person who is depicted in an image of ~~fa violent offense~~ bullying is a minor, the court may:

(a) Inspect the person in question;

(b) View the image;

(c) Consider the opinion of a witness to the image regarding the person's age;

(d) Consider the opinion of a medical expert who viewed the image; or

(e) Use any other method authorized by the rules of evidence at common law.

4. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Electronic communication device" means any electronic device that is capable of transmitting or distributing an image of ~~fa violent offense~~ bullying, including, without limitation, a cellular telephone, personal digital assistant, computer, computer network and computer system.

~~fa violent offense~~ bullying" means any visual depiction, including, without limitation, any photograph or video, of ~~fa person committing any offense involving the use or threatened use of force or violence against~~ a minor ~~fa~~ bullying another minor.

~~fa~~ (d) "Minor" means a person who is under 18 years of age.

Sec. 2. NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

(a) Is subject to compulsory school attendance and is a habitual truant from school;

(b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable;

(c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation; ~~for~~

(d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of NRS 200.737 ~~H~~; or

(e) Transmits or distributes an image of ~~fa violent offense~~ bullying committed against a minor in violation of section 1 of this act.

2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.

3. As used in this section:

(a) **"Bullying" has the meaning ascribed to it in NRS 388.122.**

(b) "Electronic communication device" has the meaning ascribed to it in NRS 200.737.

~~[(b) "Image of a violent offense" has the meaning ascribed to it in section 1 of this act.]~~

(c) "Sexual image" has the meaning ascribed to it in NRS 200.737.

Sec. 3. [NRS 388.123 is hereby amended to read as follows:

~~388.123 1. "Cyber bullying" means bullying through the use of electronic communication. The term includes the use of electronic communication to transmit or distribute a sexual image of a minor [.] or to transmit or distribute an image of a violent offense committed against a minor in violation of section 1 of this act.~~

~~2. As used in this section [,"sexual"]:~~

~~(a) "Image of a violent offense" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Sexual image" has the meaning ascribed to it in NRS 200.737.]~~ **(Deleted by amendment.)**