

SENATE BILL NO. 388—SENATORS PARKS,
SPEARMAN AND SEGERBLOM

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN MARTIN AND HEALEY

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to crimes involving certain persons. (BDR 15-927)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to crimes; repealing the crime of solicitation of a minor to engage in acts constituting the infamous crime against nature; revising certain definitions and references to sex acts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature is guilty of a crime. Existing law further defines the "infamous crime against nature" as anal intercourse, cunnilingus or fellatio between natural persons of the same sex. (NRS 201.195) **Section 20** of this bill repeals the crime of solicitation of a minor to engage in acts constituting the infamous crime against nature.

Existing law defines the term "sexual conduct" for the crimes of: (1) the unlawful exhibition and sale of obscene material to minors; and (2) the unlawful voluntary sexual conduct between a prisoner and another person. (NRS 201.263, 212.187) **Sections 1 and 15** of this bill remove the term "homosexuality," and replace the term "sexual intercourse" with the term "sexual penetration," for the purposes of defining "sexual conduct."

Existing law also requires the segregation of certain offenders committed to the custody of the Department of Corrections, if the offender tests positive for human immunodeficiency virus and engages in certain behavior, including the infamous crime against nature, that increases the risk of transmitting the virus. (NRS 209.385) **Section 14** of this bill removes the reference to the infamous crime against nature, and replaces it with a reference to "sexual conduct."



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Existing law provides that a member of the Nevada National Guard is generally subject to disciplinary proceedings through a court-martial. However, for certain crimes, including the infamous crime against nature, a member is subject to the jurisdiction of the civil courts. (NRS 412.562) **Section 19** of this bill removes the reference to the infamous crime against nature, thereby deleting that particular offense from the jurisdiction of the civil courts.

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

Section 1. NRS 201.263 is hereby amended to read as follows:
201.263 “Sexual conduct” means acts of masturbation,
~~homosexuality,~~ sexual ~~intercourse~~ *penetration* or physical
contact with a person’s unclothed genitals or pubic area.

Sec. 2. NRS 202.876 is hereby amended to read as follows:

202.876 “Violent or sexual offense” means any act that, if
prosecuted in this State, would constitute any of the following
offenses:

1. Murder or voluntary manslaughter pursuant to NRS 200.010
to 200.260, inclusive.

2. Mayhem pursuant to NRS 200.280.

3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.

4. Sexual assault pursuant to NRS 200.366.

5. Robbery pursuant to NRS 200.380.

6. Administering poison or another noxious or destructive
substance or liquid with intent to cause death pursuant to
NRS 200.390.

7. Battery with intent to commit a crime pursuant to
NRS 200.400.

8. Administering a drug or controlled substance to another
person with the intent to enable or assist the commission of a felony
or crime of violence pursuant to NRS 200.405 or 200.408.

9. False imprisonment pursuant to NRS 200.460 if the false
imprisonment involves the use or threatened use of force or violence
against the victim or the use or threatened use of a firearm or a
deadly weapon.

10. Assault with a deadly weapon pursuant to NRS 200.471.

11. Battery which is committed with the use of a deadly
weapon or which results in substantial bodily harm as described in
NRS 200.481 or battery which is committed by strangulation as
described in NRS 200.481 or 200.485.

12. An offense involving pornography and a minor pursuant to
NRS 200.710 or 200.720.

13. ~~Solicitation of a minor to engage in acts constituting the
infamous crime against nature pursuant to NRS 201.195.~~



~~14.~~ Intentional transmission of the human immunodeficiency virus pursuant to NRS 201.205.

~~15.~~ 14. Open or gross lewdness pursuant to NRS 201.210.

~~16.~~ 15. Lewdness with a child pursuant to NRS 201.230.

~~17.~~ 16. An offense involving pandering or prostitution in violation of NRS 201.300, 201.320 or 201.340.

~~18.~~ 17. Coercion pursuant to NRS 207.190, if the coercion involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

~~19.~~ 18. An attempt, conspiracy or solicitation to commit an offense listed in ~~subsections 1 to 18, inclusive.~~ **this section.**

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

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

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

(b) A misdemeanor and the unlawful act involved:

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

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

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

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

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

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

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

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

(a) May be retained in a local file or a local system for the automatic retrieval of fingerprints if they are retained under special security measures that limit inspection of the fingerprints to law enforcement officers who are conducting criminal investigations. If the child from whom the fingerprints are taken subsequently is not adjudicated delinquent, the parent or guardian of the child or, when



1 the child becomes at least 18 years of age, the child may petition the
2 juvenile court for the removal of the fingerprints from any local file
3 or local system.

4 (b) Must be submitted to the Central Repository if the child is
5 adjudicated delinquent for an unlawful act that would have been a
6 felony or a sexual offense if committed by an adult, and may be
7 submitted to the Central Repository for any other act. Any such
8 fingerprints submitted to the Central Repository must be submitted
9 with a description of the child and the unlawful act, if any, that the
10 child committed. The Central Repository shall retain the fingerprints
11 and information of the child under special security measures that
12 limit inspection of the fingerprints and the information to:

13 (1) Law enforcement officers who are conducting criminal
14 investigations; and

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

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

22 4. A child who is in custody must be photographed for the
23 purpose of identification. Except as otherwise provided in this
24 subsection, the photographs of the child must be kept in the file
25 pertaining to the child under special security measures which
26 provide that the photographs may be inspected only to conduct
27 criminal investigations and photographic lineups. If the juvenile
28 court subsequently determines that the child is not delinquent, the
29 juvenile court shall order the photographs to be destroyed.

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

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

33 (a) Sexual assault pursuant to NRS 200.366;

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

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

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

39 (e) Incest pursuant to NRS 201.180;

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

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

43 ~~(h)~~ (g) Indecent or obscene exposure pursuant to
44 NRS 201.220;

45 ~~(h)~~ (h) Lewdness with a child pursuant to NRS 201.230;



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

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

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

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

Sec. 4. 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)~~ (g) Open or gross lewdness pursuant to NRS 201.210;

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



~~(h)~~ (h) Lewdness with a child pursuant to NRS 201.230;
~~(i)~~ (i) Sexual penetration of a dead human body pursuant to
NRS 201.450;
~~(j)~~ (j) Luring a child using a computer, system or network
pursuant to NRS 201.560, if punished as a felony;
~~(k)~~ (k) Annoyance or molestation of a minor pursuant to
NRS 207.260;
~~(l)~~ (l) An attempt to commit an offense listed in paragraphs
(a) to ~~(i)~~, ~~(j)~~, inclusive;
~~(m)~~ (m) An offense that is determined to be sexually motivated
pursuant to NRS 175.547; or
~~(n)~~ (n) An offense committed in another jurisdiction that, if
committed in this State, would have been an offense listed in this
subsection.

Sec. 5. 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)~~ (g) Indecent or obscene exposure pursuant to
NRS 201.220;

~~(i)~~ (h) Lewdness with a child pursuant to NRS 201.230;
~~(j)~~ (i) Sexual penetration of a dead human body pursuant to
NRS 201.450;

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

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

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

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



Sec. 6. 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 or 201.450 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. 7. 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)~~ ~~(h)~~ Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

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

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

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

~~(m)~~ ~~(l)~~ An attempt to commit an offense listed in paragraphs (a) to ~~(l)~~ ~~(j)~~, inclusive, if punished as a felony; or

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

Sec. 8. 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 of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a person pursuant to this section or for refusing to consider a person for certification pursuant to this section.

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

(a) Attempted sexual assault of a person who is 16 years of age or older 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.

(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)~~ ~~(h)~~ Indecent or obscene exposure pursuant to NRS 201.220.

~~(j)~~ ~~(i)~~ Sexual penetration of a dead human body pursuant to NRS 201.450.

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

~~(l)~~ ~~(k)~~ A violation of NRS 207.180.

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

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

Sec. 9. NRS 178.5698 is hereby amended to read as follows:

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

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

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

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



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

(a) In writing; or

(b) By telephone through an automated or computerized system of notification, if such a system is available.

3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 5;

(2) The form that the witness must use to request notification in writing; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 4, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.131;

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides a current address, notify the victim or witness at that address when the offender is released from the prison.



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6. If the offender was convicted of a violation of subsection 3 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)~~ (7) Indecent or obscene exposure pursuant to NRS 201.220;

~~(9)~~ (8) Lewdness with a child pursuant to NRS 201.230;

~~(10)~~ (9) Sexual penetration of a dead human body pursuant to NRS 201.450;

~~(11)~~ (10) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

~~(12)~~ (11) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

~~(13)~~ (12) An attempt to commit an offense listed in this paragraph.

Sec. 10. 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



1 person may petition the court in which the person was convicted for
2 the sealing of all records relating to a conviction of:

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

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

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

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

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

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

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

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

26 (1) The Central Repository for Nevada Records of Criminal
27 History; and

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

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

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

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

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

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



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1 ➡ The prosecuting attorney and any person having relevant
2 evidence may testify and present evidence at the hearing on the
3 petition.

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

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

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

24 7. As used in this section:

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

27 (b) "Sexual offense" means:

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

32 (2) Sexual assault pursuant to NRS 200.366.

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

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

37 (5) An offense involving the administration of a drug to
38 another person with the intent to enable or assist the commission of
39 a felony pursuant to NRS 200.405, if the felony is an offense listed
40 in this paragraph.

41 (6) An offense involving the administration of a controlled
42 substance to another person with the intent to enable or assist the
43 commission of a crime of violence pursuant to NRS 200.408, if the
44 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)~~ **(11)** Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

~~(13)~~ **(12)** Lewdness with a child pursuant to NRS 201.230.

~~(14)~~ **(13)** Sexual penetration of a dead human body pursuant to NRS 201.450.

~~(15)~~ **(14)** Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

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

Sec. 11. NRS 179A.073 is hereby amended to read as follows:

179A.073 1. "Sexual offense" includes acts upon a child constituting:

(a) Sexual assault under NRS 200.366;

(b) Statutory sexual seduction under NRS 200.368;

(c) Use of a minor in producing pornography under NRS 200.710;

(d) Promotion of a sexual performance of a minor under NRS 200.720;

(e) Possession of a visual presentation depicting the sexual conduct of a child under NRS 200.730;

(f) Incest under NRS 201.180;

~~(g) Solicitation of a minor to engage in the infamous crime against nature under NRS 201.195;~~

~~(h)~~ Lewdness with a child under NRS 201.230; or

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

2. "Sexual offense" also includes acts committed outside the State that would constitute any of the offenses in subsection 1 if committed in the State, and the aiding, abetting, attempting or conspiring to engage in any of the offenses in subsection 1.

Sec. 12. 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



1 molestation of a child less than 14 years of age pursuant to
2 paragraph (b) of subsection 1 of NRS 200.030.

3 (b) Sexual assault pursuant to NRS 200.366.

4 (c) Statutory sexual seduction pursuant to NRS 200.368.

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

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

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

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

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

19 (i) Incest pursuant to NRS 201.180.

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

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

23 ~~(l)~~ (k) Indecent or obscene exposure pursuant to
24 NRS 201.220.

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

26 ~~(n)~~ (m) Sexual penetration of a dead human body pursuant to
27 NRS 201.450.

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

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

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

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

36 ~~(s)~~ (r) An offense committed in another jurisdiction that, if
37 committed in this State, would be an offense listed in this section.
38 This paragraph includes, without limitation, an offense prosecuted
39 in:

40 (1) A tribal court.

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

43 ~~(t)~~ (s) An offense of a sexual nature committed in another
44 jurisdiction, whether or not the offense would be an offense listed in
45 this section, if the person who committed the offense resides or has



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1 resided or is or has been a student or worker in any jurisdiction in
2 which the person is or has been required by the laws of that
3 jurisdiction to register as a sex offender because of the offense. This
4 paragraph includes, without limitation, an offense prosecuted in:

5 (1) A tribal court.

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

8 (3) A court having jurisdiction over juveniles.

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

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

13 (b) At least 13 years of age and the offender was not more than
14 4 years older than the victim at the time of the commission of the
15 offense.

16 **Sec. 13.** NRS 179D.495 is hereby amended to read as follows:

17 179D.495 If a person who is required to register pursuant to
18 NRS 179D.010 to 179D.550, inclusive, has been convicted of an
19 offense described in paragraph ~~(f)~~ (o) of subsection 1 of NRS
20 179D.097, paragraph (e) of subsection 1 or subsection 3 of NRS
21 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central
22 Repository shall determine whether the person is required to register
23 as a Tier I offender, Tier II offender or Tier III offender.

24 **Sec. 14.** NRS 209.385 is hereby amended to read as follows:

25 209.385 1. Each offender committed to the custody of the
26 Department for imprisonment shall submit to such initial tests as the
27 Director determines appropriate to detect exposure to the human
28 immunodeficiency virus. Each such test must be approved by
29 regulation of the State Board of Health. At the time the offender is
30 committed to custody and after an incident involving the offender:

31 (a) The appropriate approved tests must be administered; and

32 (b) The offender must receive counseling regarding the virus.

33 2. If the results of an initial test are positive, the offender shall
34 submit to such supplemental tests as the Director determines
35 appropriate. Each such test must be approved for the purpose by
36 regulation of the State Board of Health.

37 3. If the results of a supplemental test are positive, the name of
38 the offender must be disclosed to:

39 (a) The Director;

40 (b) The administrative officers of the Department who are
41 responsible for the classification and medical treatment of offenders;

42 (c) The manager or warden of the facility or institution at which
43 the offender is confined; and



(d) Each other employee of the Department whose normal duties involve the employee with the offender or require the employee to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of a supplemental test are positive; and

(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, ~~the infamous crime against nature,~~ *sexual conduct*, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The Director, with the approval of the Board:

(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.

(b) ~~"Infamous crime against nature"~~ *"Sexual conduct"* means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

Sec. 15. NRS 212.187 is hereby amended to read as follows:

212.187 1. A prisoner who is in lawful custody or confinement, other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement, and who voluntarily engages in sexual conduct with another person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. A person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or confinement, other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section, "sexual conduct":

(a) Includes acts of masturbation, ~~homosexuality,~~ *sexual intercourse* *penetration* or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.



(b) Does not include acts of a person who has custody of a prisoner or an employee of the institution in which the prisoner is confined that are performed to carry out the necessary duties of such a person or employee.

Sec. 16. 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. "Board" means the State Board of Parole Commissioners.

2. "Chief" means the Chief Parole and Probation Officer.

3. "Division" means the Division of Parole and Probation of the Department of Public Safety.

4. "Residential confinement" means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.

5. "Sex offender" means any person who has been or is convicted of a sexual offense.

6. "Sexual offense" means:

(a) 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 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) 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.

7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

Sec. 17. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The Board shall not grant parole to or continue the parole of a prisoner who has served, is serving or has yet to serve a sentence on his or her current term of imprisonment for having been convicted of an offense listed in subsection 8 unless a panel consisting of:

(a) The Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services or his or her designee;

(b) The Director of the Department of Corrections or his or her designee; and

(c) A psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State,



1 ➤ evaluates the prisoner, within 120 days before a hearing to
2 consider granting or continuing his or her parole, using a currently
3 accepted standard of assessment to determine the prisoner's
4 likelihood to reoffend in a sexual manner. The panel shall provide a
5 report of its evaluation to the Board before the hearing.

6 2. The Board may require the panel to conduct an evaluation of
7 a prisoner who is a sex offender if an evaluation may assist the
8 Board in determining whether parole should be granted or
9 continued. The panel shall provide a report of its evaluation to the
10 Board before the hearing to consider granting or continuing the
11 prisoner's parole.

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

25 4. The panel shall adopt regulations pertaining to the
26 evaluation of prisoners subject to the provisions of this section to
27 determine a prisoner's risk to reoffend in a sexual manner. The
28 regulations must be adopted in accordance with the provisions of
29 chapter 233B of NRS and must be codified in the Nevada
30 Administrative Code.

31 5. The regulations adopted pursuant to subsection 4 must
32 require that:

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

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

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

42 6. The panel shall:

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



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

7. If the panel finds that a standard of assessment is ineffective, or another standard of assessment is more effective, in predicting whether a prisoner may reoffend in a sexual manner, the panel may discontinue the use of the current standard of assessment and adopt a new standard of assessment that is determined to be more 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)~~ (h) Indecent or obscene exposure pursuant to NRS 201.220.

~~(j)~~ (i) Lewdness with a child pursuant to NRS 201.230.

~~(k)~~ (j) Sexual penetration of a dead human body pursuant to NRS 201.450.

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

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

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

~~(o)~~ (n) 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)~~ 18 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)~~ (11) Indecent or obscene exposure pursuant to NRS 201.220.

~~(13)~~ (12) Lewdness with a child pursuant to NRS 201.230.

~~(14)~~ (13) Sexual penetration of a dead human body pursuant to NRS 201.450.



~~(15)~~ (14) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

~~(16)~~ (15) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to ~~(15)~~, (14), inclusive.

~~(17)~~ (16) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~(18)~~ (17) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this paragraph. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

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

~~(19)~~ (18) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this paragraph, 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 subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

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

(III) A court having jurisdiction over juveniles.

➔ The term does not include an offense involving consensual sexual conduct if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was 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. 18. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who is a Tier 3 offender, the Board shall require that the parolee:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park,



1 an athletic field or a facility for youth sports, or a motion picture
2 theater.

3 (b) As deemed appropriate by the Chief, be placed under a
4 system of active electronic monitoring that is capable of identifying
5 his or her location and producing, upon request, reports or records of
6 his or her presence near or within a crime scene or prohibited area
7 or his or her departure from a specified geographic location.

8 (c) Pay any costs associated with his or her participation under
9 the system of active electronic monitoring, to the extent of his or her
10 ability to pay.

11 2. A parolee placed under the system of active electronic
12 monitoring pursuant to subsection 1 shall:

13 (a) Follow the instructions provided by the Division to maintain
14 the electronic monitoring device in working order.

15 (b) Report any incidental damage or defacement of the
16 electronic monitoring device to the Division within 2 hours after the
17 occurrence of the damage or defacement.

18 (c) Abide by any other conditions set forth by the Division with
19 regard to his or her participation under the system of active
20 electronic monitoring.

21 3. Except as otherwise provided in this subsection, a person
22 who intentionally removes or disables or attempts to remove or
23 disable an electronic monitoring device placed on a parolee pursuant
24 to this section is guilty of a gross misdemeanor. The provisions of
25 this subsection do not prohibit a person authorized by the Division
26 from performing maintenance or repairs to an electronic monitoring
27 device.

28 4. The Board is not required to impose a condition of parole
29 listed in subsection 1 if the Board finds that extraordinary
30 circumstances are present and the Board states those extraordinary
31 circumstances in writing.

32 5. In addition to any conditions of parole required to be
33 imposed pursuant to subsection 1 and NRS 213.1245, as a condition
34 of releasing on parole a prisoner who was convicted of committing
35 an offense listed in subsection 6 against a child under the age of 14
36 years, the Board shall, when appropriate:

37 (a) Require the parolee to participate in psychological
38 counseling.

39 (b) Prohibit the parolee from being alone with a child unless
40 another adult who has never been convicted of a sexual offense is
41 present.

42 6. The provisions of subsections 1 and 5 apply to a prisoner
43 who was convicted of:

44 (a) Sexual assault pursuant to paragraph (c) of subsection 3 of
45 NRS 200.366;



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(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;

(c) An offense punishable pursuant to subsection 2 of NRS 200.750;

(d) ~~Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;~~

~~(e)~~ Lewdness with a child pursuant to NRS 201.230;

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

~~(g)~~ (f) Any combination of the crimes listed in ~~paragraphs (a) to (f) inclusive;~~ *this subsection.*

Sec. 19. NRS 412.562 is hereby amended to read as follows:

412.562 Though not specifically mentioned in this Code, all disorders and neglects to the prejudice of good order and discipline in the Nevada National Guard of which persons subject to this Code may be guilty must be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance may not be taken and jurisdiction may not be extended to the crimes of murder, manslaughter, sexual assault, larceny and wrongful appropriation for value of \$100 and over, robbery, mayhem, arson, extortion, assault, burglary ~~or~~ invasion of the home, ~~for the infamous crime against nature;~~ jurisdiction of which is reserved to civil courts, except as otherwise provided in NRS 412.322.

Sec. 20. NRS 201.195 is hereby repealed.

TEXT OF REPEALED SECTION

201.195 Solicitation of minor to engage in acts constituting crime against nature; penalties.

1. A person who incites, entices or solicits a minor to engage in acts which constitute the infamous crime against nature:

(a) If the minor actually engaged in such acts as a result and:

(1) The minor was less than 14 years of age, is guilty of a category A felony and shall be punished 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.

(2) The minor was 14 years of age or older, is guilty of a category A felony and shall be punished by imprisonment in the



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state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

(b) If the minor did not engage in such acts:

(1) For the first offense, is guilty of a gross misdemeanor.

(2) For any subsequent offense, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served.

2. As used in this section, the “infamous crime against nature” means anal intercourse, cunnilingus or fellatio between natural persons of the same sex. Any sexual penetration, however slight, is sufficient to complete the infamous crime against nature.

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