

SENATE BILL NO. 414—COMMITTEE ON JUDICIARY

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Prohibits transmitting or distributing certain violent images 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 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 committed against another minor for the purpose of encouraging, furthering or promoting such an offense 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 388.121-388.139) **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.



* S B 4 1 4 *

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 a violent offense committed against a minor to another person with the intent to encourage, further or promote such an offense 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 a violent offense 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) "Electronic communication device" means any electronic device that is capable of transmitting or distributing an image of a violent offense, including, without limitation, a cellular telephone, personal digital assistant, computer, computer network and computer system.

(b) "Image of a violent offense" means any visual depiction, including, without limitation, any photograph or video, of a person committing any offense involving the use or threatened use of force or violence against a minor.

(c) "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



1 alleged or adjudicated to be in need of supervision because the
2 child:

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

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

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

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

13 *(e) Transmits or distributes an image of a violent offense*
14 *committed against a minor in violation of section 1 of this act.*

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

18 3. As used in this section:

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

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

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

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

26 388.123 1. "Cyber-bullying" means bullying through the use
27 of electronic communication. The term includes the use of
28 electronic communication to transmit or distribute a sexual image of
29 a minor ~~H~~ *or to transmit or distribute an image of a violent*
30 *offense committed against a minor in violation of section 1 of this*
31 *act.*

32 2. As used in this section ~~H~~ *"sexual"*:

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

35 (b) *"Sexual" image* has the meaning ascribed to it in
36 NRS 200.737.

