

SENATE BILL NO. 192—SENATORS HARRIS, BROWER, ROBERSON,
FARLEY; DENIS, GOICOECHEA, GUSTAVSON, HAMMOND,
HARDY, LIPPARELLI, SETTELMAYER AND WOODHOUSE

FEBRUARY 25, 2015

JOINT SPONSORS: ASSEMBLYMEN HAMBRICK; AND SEAMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to sexual conduct
between certain persons. (BDR 14-731)

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 or
volunteers at a school who are convicted of engaging in
sexual conduct with certain pupils are subject to various
statutory provisions relating to sex offenders; providing
that certain employees of a college or university who are
convicted of engaging in sexual conduct with certain
students are also subject to various statutory provisions
relating to sex offenders; revising provisions relating to
certain employees of or volunteers at a school who
engage in sexual conduct with certain pupils; prohibiting
certain employees of or volunteers at a school from
engaging in sexual conduct with a pupil who is 18 years
of age; prohibiting certain employees of a college or
university from engaging in sexual conduct with a student
who is 18 years of age; providing a penalty; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law: (1) requires a court to include a special sentence of lifetime
- 2 supervision for any person convicted of certain sexual offenses; and (2) provides
- 3 certain conditions of lifetime supervision. (NRS 176.0931, 213.1243) **Sections 1**
- 4 **and 12** of this bill add to the list of sexual offenses that require a sentence of
- 5 lifetime supervision and for which certain conditions of lifetime supervision apply:



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(1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law also: (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 to the list of sexual offenses which require a psychosexual evaluation as part of the presentence investigation and report and 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: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

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: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

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: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

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: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

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.115, 179D.117) **Section 7** of this bill makes a person a Tier II offender if the person is convicted of: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; or (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

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: (1) an offense involving sexual conduct between certain



employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law requires the Department of Corrections to assess each prisoner who has been convicted of a sexual offense to determine the prisoner's risk to reoffend in a sexual manner. The State Board of Parole Commissioners must consider the assessment before determining whether to grant or revoke the parole of a person convicted of a sexual offense. (NRS 213.1214) **Section 13** of this bill adds to the list of sexual offenses which require such an assessment: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law generally provides that a person who: (1) is 21 years of age or older; (2) is or was employed in a position of authority by or is or was volunteering in a position of authority at a public or private school; and (3) engages in sexual conduct with a pupil, is guilty of a category C felony if the pupil is 16 or 17 years of age or a category B felony if the pupil is 14 or 15 years of age. (NRS 201.540) **Section 10** of this bill: (1) removes the requirement that such a person be employed or volunteer in a position of authority; and (2) prohibits such a person from engaging in sexual conduct with a pupil who is 18 years of age. Similarly, existing law generally provides that a person who: (1) is 21 years of age or older; (2) is employed in a position of authority by a college or university; and (3) engages in sexual conduct with a student who is 16 or 17 years of age and enrolled in or attending the college or university, is guilty of a category C felony. (NRS 201.550) **Section 11** of this bill prohibits such a person from engaging in sexual conduct with a student who is 18 years of age.

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, 201.230, ~~for~~ 201.450, **201.540 or 201.550** 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) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

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

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

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

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



1 *(l) Sexual conduct between certain employees of a college or*
2 *university and a student pursuant to NRS 201.550;*

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

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

7 ~~(((m))~~ *(o) An offense that is determined to be sexually motivated*
8 *pursuant to NRS 175.547 or 207.193.*

9 **Sec. 3.** NRS 176A.110 is hereby amended to read as follows:

10 176A.110 1. The court shall not grant probation to or
11 suspend the sentence of a person convicted of an offense listed in
12 subsection 3 unless:

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

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

28 2. This section does not create a right in any person to be
29 certified or to continue to be certified. No person may bring a cause
30 of action against the State, its political subdivisions, or the agencies,
31 boards, commissions, departments, officers or employees of the
32 State or its political subdivisions for not certifying a person pursuant
33 to this section or for refusing to consider a person for certification
34 pursuant to this section.

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

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

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

40 (c) Battery with intent to commit sexual assault pursuant to
41 NRS 200.400.

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

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

45 (f) Incest pursuant to NRS 201.180.



- 1 (g) Open or gross lewdness pursuant to NRS 201.210.
- 2 (h) Indecent or obscene exposure pursuant to NRS 201.220.
- 3 (i) Sexual penetration of a dead human body pursuant to
- 4 NRS 201.450.

5 (j) *Sexual conduct between certain employees of a school or*

6 *volunteers at a school and a pupil pursuant to NRS 201.540.*

7 (k) *Sexual conduct between certain employees of a college or*

8 *university and a student pursuant to NRS 201.550.*

9 (l) Luring a child or a person with mental illness pursuant to

10 NRS 201.560, if punished as a felony.

11 ~~((m))~~ (m) A violation of NRS 207.180.

12 ~~((n))~~ (n) An attempt to commit an offense listed in paragraphs

13 (b) to ~~((m))~~ (m), inclusive.

14 ~~((o))~~ (o) Coercion or attempted coercion that is determined to

15 be sexually motivated pursuant to NRS 207.193.

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

17 178.5698 1. The prosecuting attorney, sheriff or chief of

18 police shall, upon the request of a victim or witness, inform the

19 victim or witness:

20 (a) When the defendant is released from custody at any time

21 before or during the trial, including, without limitation, when the

22 defendant is released pending trial or subject to electronic

23 supervision;

24 (b) If the defendant is so released, the amount of bail required, if

25 any; and

26 (c) Of the final disposition of the criminal case in which the

27 victim or witness was directly involved.

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

29 made:

30 (a) In writing; or

31 (b) By telephone through an automated or computerized system

32 of notification, if such a system is available.

33 3. If an offender is convicted of a sexual offense or an offense

34 involving the use or threatened use of force or violence against the

35 victim, the court shall provide:

36 (a) To each witness, documentation that includes:

37 (1) A form advising the witness of the right to be notified

38 pursuant to subsection 5;

39 (2) The form that the witness must use to request notification

40 in writing; and

41 (3) The form or procedure that the witness must use to

42 provide a change of address after a request for notification has been

43 submitted.

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

45 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 or NRS 213.10915;

(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.

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) Open or gross lewdness pursuant to NRS 201.210;
- (7) Indecent or obscene exposure pursuant to NRS 201.220;
- (8) Lewdness with a child pursuant to NRS 201.230;
- (9) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (10) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;*
- (11) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;*
- (12) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;
- ~~(11)~~ (13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or
- ~~(12)~~ (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:

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

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

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

(d) Any gross misdemeanor after 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;

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



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

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from:

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

(2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;

(b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

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

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

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

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

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

➤ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the 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 any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner



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1 returned to the file of the court where the proceeding was
2 commenced from, including, without limitation, the Federal Bureau
3 of Investigation, the California Bureau of Criminal Identification
4 and Information and all other agencies of criminal justice which
5 maintain such records and which are reasonably known by either the
6 petitioner or the court to have possession of such records.

7 5. A person may not petition the court to seal records relating
8 to a conviction of:

9 (a) A crime against a child;

10 (b) A sexual offense;

11 (c) A violation of NRS 484C.110 or 484C.120 that is punishable
12 as a felony pursuant to paragraph (c) of subsection 1 of
13 NRS 484C.400;

14 (d) A violation of NRS 484C.430;

15 (e) A homicide resulting from driving or being in actual physical
16 control of a vehicle while under the influence of intoxicating liquor
17 or a controlled substance or resulting from any other conduct
18 prohibited by NRS 484C.110, 484C.130 or 484C.430;

19 (f) A violation of NRS 488.410 that is punishable as a felony
20 pursuant to NRS 488.427; or

21 (g) A violation of NRS 488.420 or 488.425.

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

26 7. As used in this section:

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

29 (b) "Sexual offense" means:

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

34 (2) Sexual assault pursuant to NRS 200.366.

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

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

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

43 (6) An offense involving the administration of a controlled
44 substance to another person with the intent to enable or assist the



1 commission of a crime of violence pursuant to NRS 200.408, if the
2 crime of violence is an offense listed in this paragraph.

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

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

7 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

17 (15) *Sexual conduct between certain employees of a college*
18 *or university and a student pursuant to NRS 201.550.*

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

21 ~~(15)~~ (17) An attempt to commit an offense listed in this
22 paragraph.

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

24 179D.097 1. "Sexual offense" means any of the following
25 offenses:

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

30 (b) Sexual assault pursuant to NRS 200.366.

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

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

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

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

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

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



- 1 (i) Incest pursuant to NRS 201.180.
- 2 (j) Open or gross lewdness pursuant to NRS 201.210.
- 3 (k) Indecent or obscene exposure pursuant to NRS 201.220.
- 4 (l) Lewdness with a child pursuant to NRS 201.230.
- 5 (m) Sexual penetration of a dead human body pursuant to
- 6 NRS 201.450.
- 7 (n) *Sexual conduct between certain employees of a school or*
- 8 *volunteers at a school and a pupil pursuant to NRS 201.540.*
- 9 (o) *Sexual conduct between certain employees of a college or*
- 10 *university and a student pursuant to NRS 201.550.*
- 11 (p) Luring a child or a person with mental illness pursuant to
- 12 NRS 201.560, if punished as a felony.
- 13 ~~(q)~~ (q) Sex trafficking pursuant to NRS 201.300.
- 14 ~~(r)~~ (r) Any other offense that has an element involving a
- 15 sexual act or sexual conduct with another.
- 16 ~~(s)~~ (s) An attempt or conspiracy to commit an offense listed in
- 17 paragraphs (a) to ~~(p)~~ (r), inclusive.
- 18 ~~(t)~~ (t) An offense that is determined to be sexually motivated
- 19 pursuant to NRS 175.547 or 207.193.
- 20 ~~(u)~~ (u) An offense committed in another jurisdiction that, if
- 21 committed in this State, would be an offense listed in this
- 22 subsection. This paragraph includes, without limitation, an offense
- 23 prosecuted in:
 - 24 (1) A tribal court.
 - 25 (2) A court of the United States or the Armed Forces of the
 - 26 United States.
- 27 ~~(v)~~ (v) An offense of a sexual nature committed in another
- 28 jurisdiction, whether or not the offense would be an offense listed in
- 29 this section, if the person who committed the offense resides or has
- 30 resided or is or has been a student or worker in any jurisdiction in
- 31 which the person is or has been required by the laws of that
- 32 jurisdiction to register as a sex offender because of the offense. This
- 33 paragraph includes, without limitation, an offense prosecuted in:
 - 34 (1) A tribal court.
 - 35 (2) A court of the United States or the Armed Forces of the
 - 36 United States.
 - 37 (3) A court having jurisdiction over juveniles.
- 38 2. The term does not include an offense involving consensual
- 39 sexual conduct if the victim was:
 - 40 (a) An adult, unless the adult was under the custodial authority
 - 41 of the offender at the time of the offense; or
 - 42 (b) At least 13 years of age and the offender was not more than
 - 43 4 years older than the victim at the time of the commission of the
 - 44 offense.



1 **Sec. 7.** NRS 179D.115 is hereby amended to read as follows:

2 179D.115 “Tier II offender” means an offender convicted of a
3 crime against a child or a sex offender, other than a Tier III
4 offender, whose crime against a child is punishable by
5 imprisonment for more than 1 year or whose sexual offense:

6 1. If committed against a child, constitutes:

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

9 (b) *Sexual conduct between certain employees of a college or*
10 *university and a student pursuant to NRS 201.550;*

11 (c) Luring a child pursuant to NRS 201.560, if punishable as a
12 felony;

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

15 ~~(c)~~ (e) An offense involving sex trafficking pursuant to NRS
16 201.300 or prostitution pursuant to NRS 201.320;

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

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

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

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

27 (a) A tribal court; or

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

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

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

34 179D.495 If a person who is required to register pursuant to
35 NRS 179D.010 to 179D.550, inclusive, has been convicted of an
36 offense described in paragraph ~~(p)~~ (r) of subsection 1 of NRS
37 179D.097, paragraph ~~(e)~~ (g) of subsection 1 or subsection 3 of
38 NRS 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central
39 Repository shall determine whether the person is required to register
40 as a Tier I offender, Tier II offender or Tier III offender.

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

42 200.366 1. A person who subjects another person to sexual
43 penetration, or who forces another person to make a sexual
44 penetration on himself or herself or another, or on a beast, against
45 the will of the victim or under conditions in which the perpetrator



1 knows or should know that the victim is mentally or physically
2 incapable of resisting or understanding the nature of his or her
3 conduct, is guilty of sexual assault.

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

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

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

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

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

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

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

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

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

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

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

37 (b) An offense committed in another jurisdiction that, if
38 committed in this State, would constitute a sexual assault pursuant
39 to this section or any other sexual offense against a child,

40 ➔ is guilty of a category A felony and shall be punished by
41 imprisonment in the state prison for life without the possibility of
42 parole.

43 5. For the purpose of this section, "other sexual offense against
44 a child" means any act committed by an adult upon a child
45 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;*
- (e) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550; or*
- (f) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 10. NRS 201.540 is hereby amended to read as follows:
201.540 1. Except as otherwise provided in subsection ~~4, 3~~, a person who:

- (a) Is 21 years of age or older;
- (b) Is or was employed ~~in a position of authority~~ by a public school or private school or is or was volunteering ~~in a position of authority~~ at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 16, ~~for~~ 17 or 18 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,
is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection ~~4, 3~~, a person who:

- (a) Is 21 years of age or older;
- (b) Is or was employed ~~in a position of authority~~ by a public school or private school or is or was volunteering ~~in a position of authority~~ at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 14 or 15 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,
is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

3. ~~For the purposes of subsections 1 and 2, a person shall be deemed to be or have been employed in a position of authority by a public school or private school or deemed to be or have been~~



~~volunteering in a position of authority at a public or private school if the person is or was employed or volunteering as:~~

~~—(a) A teacher or instructor;~~

~~—(b) An administrator;~~

~~—(c) A head or assistant coach; or~~

~~—(d) A teacher's aide or an auxiliary, nonprofessional employee who assists licensed personnel in the instruction or supervision of pupils pursuant to NRS 391.100.~~

~~4.]~~ The provisions of this section do not apply to a person who is married to the pupil.

Sec. 11. NRS 201.550 is hereby amended to read as follows:

201.550 1. Except as otherwise provided in subsection 3, a person who:

(a) Is 21 years of age or older;

(b) Is employed in a position of authority by a college or university; and

(c) Engages in sexual conduct with a student who is 16 , ~~for~~ 17 or 18 years of age and who is enrolled in or attending the college or university at which the person is employed,

is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. For the purposes of subsection 1, a person shall be deemed to be employed in a position of authority by a college or university if the person is employed as:

(a) A teacher, instructor or professor;

(b) An administrator; or

(c) A head or assistant coach.

3. The provisions of this section do not apply to a person who is married to the student.

Sec. 12. 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, 201.230 , ~~for~~ 201.450, **201.540 or 201.550** 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. 13. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The Department of Corrections shall assess each prisoner who has been convicted of a sexual offense to determine the prisoner's risk to reoffend in a sexual manner using a currently accepted standard of assessment. The completed assessment must return a risk level of low, moderate or high. The Director shall ensure a completed assessment is provided to the Board before, but not sooner than 120 days before, a scheduled parole hearing.

2. The Director shall:

(a) Ensure that any employee of the Department who completes an assessment pursuant to subsection 1 is properly trained to assess the risk of an offender to reoffend in a sexual manner.

(b) Establish a procedure to:

(1) Ensure the accuracy of each completed assessment provided to the Board; and

(2) Correct any error occurring in a completed assessment provided to the Board.

3. This section does not create a right in any prisoner to be assessed or reassessed more frequently than the prisoner's regularly scheduled parole hearings or under a current or previous standard of assessment and does not restrict the Department from conducting additional assessments of a prisoner if such assessments may assist the Board in determining whether parole should be granted or continued. No cause of action may be brought against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for assessing, not assessing or considering or relying on an assessment of a prisoner, if such decisions or actions are made or conducted in compliance with the procedures set forth in this section.

4. The Board shall consider an assessment prepared pursuant to this section before determining whether to grant or revoke the parole of a person convicted of a sexual offense.

5. The Board may adopt by regulation the manner in which the Board will consider an assessment prepared pursuant to this section



* S B 1 9 2 *

1 in conjunction with the standards adopted by the Board pursuant to
2 NRS 213.10885.

3 6. As used in this section:

4 (a) "Director" means the Director of the Department of
5 Corrections.

6 (b) "Reoffend in a sexual manner" means to commit a sexual
7 offense.

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

10 (1) Convicted of a sexual offense; or

11 (2) Adjudicated delinquent or found guilty by a court having
12 jurisdiction over juveniles of a sexual offense listed in subparagraph
13 ~~+(18)~~ (20) of paragraph (d).

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

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

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

22 (2) Sexual assault pursuant to NRS 200.366.

23 (3) Statutory sexual seduction pursuant to NRS 200.368.

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

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

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

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

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

38 (9) Incest pursuant to NRS 201.180.

39 (10) Open or gross lewdness pursuant to NRS 201.210.

40 (11) Indecent or obscene exposure pursuant to NRS 201.220.

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

42 (13) Sexual penetration of a dead human body pursuant to
43 NRS 201.450.

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



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

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

~~(15)~~ (17) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to ~~(14)~~, (16), inclusive.

~~(16)~~ (18) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~(17)~~ (19) 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.

~~(18)~~ (20) 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. 14. The amendatory provisions of:

1. Sections 1 to 4, inclusive, and 9, 10 and 11 of this act apply to offenses committed on or after October 1, 2015.

2. Sections 5 to 8, inclusive, 12 and 13 of this act apply to offenses committed before, on or after October 1, 2015.

