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SECOND REPRINT

S.B. 368

SENATE BILL NO. 368—SENATORS SPEARMAN AND PARKS

MARCH 20, 2019

JOINT SPONSOR: ASSEMBLYWOMAN KRASNER

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to protections for victims of crime. (BDR 3-166)

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 victims of crime; establishing a rebuttable presumption in civil actions concerning unwelcome or nonconsensual sexual conduct by a person in a position of authority over an alleged victim; authorizing a child adjudicated delinquent for certain unlawful acts who was a victim of sex trafficking or involuntary servitude to petition the juvenile court to vacate the adjudication and seal all records relating thereto; establishing the Sexual Assault Survivors' Bill of Rights; increasing the time within which an extended order of protection against a person who allegedly committed a sexual assault may remain effective; revising provisions relating to such extended orders of protection; revising provisions relating to the crime of prostitution or solicitation of prostitution; revising provisions relating to investigations by an administrator of a public school into a report of bullying or cyber-bullying; revising provisions relating to facilities that offer services to persons with an intellectual disability or developmental disability; revising provisions relating to the testing of a person alleged to have committed a sexual offense; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 **Section 2** of this bill establishes a rebuttable presumption in any civil action  
2 concerning any unwelcome or nonconsensual sexual conduct, including sexual



\* S B 3 6 8 R 2 \*

harassment, that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a person in a position of authority over the alleged victim.

Existing law: (1) authorizes a person convicted of certain offenses who was the victim of sex trafficking or involuntary servitude to petition the court to vacate the judgment and seal all documents relating to the case; and (2) provides that if the court enters such an order, the court is also required to order sealed the records of the petitioner which relate to the judgment being vacated. (NRS 179.247) **Section 4** of this bill: (1) authorizes a child adjudicated delinquent for certain unlawful acts who was the victim of sex trafficking or involuntary servitude to petition the juvenile court to vacate the adjudication and seal all records relating to the adjudication; and (2) provides that if the juvenile court enters such an order, the juvenile court is also required to order sealed the records of the child which relate to the adjudication being vacated.

Existing law: (1) generally requires a law enforcement agency, within 30 days after receiving a sexual assault forensic evidence kit (hereinafter "SAFE kit") to submit the SAFE kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis; and (2) requires the forensic laboratory to test a SAFE kit not later than 120 days after receiving it. (NRS 200.3786) **Sections 14-15.8** of this bill establish the Sexual Assault Survivors' Bill of Rights. **Section 14.9** of this bill defines the term "survivor" for purposes of the Bill of Rights as a person who is the victim of a sexual assault or certain other persons if the victim is incompetent, deceased or a minor. **Sections 15.2-15.6** of this bill set forth procedures regarding the collection and analysis of SAFE kits. **Section 15.8** of this bill prohibits a defendant from challenging his or her conviction based on certain persons not adhering to the collection and analysis timelines set forth in such procedures.

Existing law authorizes any person who reasonably believes that the crime of sexual assault has been committed against him or her by another person to petition a court for a temporary or extended order to restrict the conduct of the person who allegedly committed the sexual assault. (NRS 200.378) Existing law provides that any such extended order expires within a time fixed by the court not to exceed 1 year. (NRS 200.3782) **Section 17** of this bill increases the time within which such an extended order can expire to 3 years. **Section 17** also: (1) requires the court to enter a finding of fact providing the basis for the imposition of an extended order for a period of greater than 1 year; and (2) authorizes the protected party or the adverse party at any time while an extended order is effective to move a court to modify or dissolve an extended order because of changed circumstances of the parties.

Existing law prohibits any person from engaging in prostitution or the solicitation thereof except in a licensed house of prostitution and provides that a prostitute who violates such a prohibition is guilty of a misdemeanor. (NRS 201.354) **Section 19** of this bill provides that if a prostitute: (1) is detained, arrested or cited for engaging in prostitution or the solicitation of prostitution, a peace officer must provide to the prostitute certain information and opportunities for connecting with social service agencies that may provide assistance to the prostitute; and (2) is determined by the prosecuting attorney to be a victim of sex trafficking, the charge must be dismissed.

Existing law requires any teacher, administrator, coach or other staff member of a public school who witnesses any bullying or cyber-bullying on the premises of any school, at an activity sponsored by a school or on any school bus to report the violation to the administrator in charge of the school or his or her designee on the same day that the violation is witnessed. The administrator or designee is required to immediately begin an investigation into the report, which must be completed not later than 2 school days after the administrator or designee received the report. (NRS 388.1351) **Section 25** of this bill provides that such provisions must not be



construed to place any limit on the time within which an investigation concerning any alleged act that constitutes sexual assault must be completed.

Existing law establishes provisions concerning persons with intellectual disabilities and persons with developmental disabilities, including provisions relating to facilities that offer services to such persons. (Chapter 435 of NRS) **Section 26** of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services to ensure that each facility to which a person with an intellectual disability or a person with a developmental disability is able to be admitted provides: (1) training to each employee of the facility regarding the protocol that must be followed if the employee becomes aware of any sexual abuse of a person that is admitted to the facility; and (2) appropriate education to each person that is admitted to the facility that explains what sexual abuse is and how to report it.

Existing law requires: (1) the district health officer in a district or the Chief Medical Officer, or the designee thereof, to test a specimen obtained from an arrested person alleged to have committed a sexual offense for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease; and (2) the agency that has custody of the arrested person to obtain the specimen and submit it for testing. The tests must be performed as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 48 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and not later than 48 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act. (NRS 441A.320) **Section 27** of this bill revises the maximum time allowed to perform the tests from 48 hours to 72 hours after the person alleged to have committed a crime is arrested or, if the person is a child, a petition alleging the commission of a delinquent act is filed.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. In any civil action concerning any unwelcome or nonconsensual sexual conduct, including, without limitation, sexual harassment, there is a rebuttable presumption that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a person in a position of authority over the alleged victim.*

*2. As used in this section:*

*(a) "Person in a position of authority" means a parent, relative, household member, employer, supervisor, youth leader, scout leader, coach, mentor in a mentoring program, teacher, professor, counselor, school administrator, religious leader, doctor, nurse, psychologist, other health care provider, guardian ad litem, guardian, babysitter, police officer or other law enforcement officer or any other person who, by reason of his or*



1 *her position, is able to exercise significant or undue influence over*  
2 *the victim.*

3 *(b) "Sexual harassment" has the meaning ascribed to it in*  
4 *NRS 176A.280.*

5 **Sec. 3.** (Deleted by amendment.)

6 **Sec. 4.** Chapter 62E of NRS is hereby amended by adding  
7 thereto a new section to read as follows:

8 *1. If a child has been adjudicated delinquent for an unlawful*  
9 *act listed in subsection 2, the child may petition the juvenile court*  
10 *for an order:*

11 *(a) Vacating the adjudication; and*

12 *(b) Sealing all records relating to the adjudication.*

13 *2. A child may file a petition pursuant to subsection 1 if the*  
14 *child was adjudicated delinquent for an unlawful act in violation*  
15 *of:*

16 *(a) NRS 201.354, for engaging in prostitution or solicitation*  
17 *for prostitution, provided that the child was not alleged to be a*  
18 *customer of a prostitute;*

19 *(b) NRS 207.200, for unlawful trespass;*

20 *(c) Paragraph (b) of subsection 1 of NRS 463.350, for*  
21 *loitering; or*

22 *(d) A county, city or town ordinance, for loitering for the*  
23 *purpose of solicitation or prostitution.*

24 *3. The juvenile court may grant a petition filed pursuant to*  
25 *subsection 1 if:*

26 *(a) The petitioner was adjudicated delinquent for an unlawful*  
27 *act described in subsection 2;*

28 *(b) The participation of the petitioner in the unlawful act was*  
29 *the result of the petitioner having been a victim of:*

30 *(1) Trafficking in persons as described in the Trafficking*  
31 *Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or*

32 *(2) Involuntary servitude as described in NRS 200.463 or*  
33 *200.4631; and*

34 *(c) The petitioner files a petition pursuant to subsection 1 with*  
35 *due diligence after the petitioner has ceased being a victim of*  
36 *trafficking or involuntary servitude or has sought services for*  
37 *victims of such trafficking or involuntary servitude.*

38 *4. Before the court decides whether to grant a petition filed*  
39 *pursuant to subsection 1, the court shall:*

40 *(a) Notify the district attorney and the chief probation officer*  
41 *or the Chief of the Youth Parole Bureau and allow any person*  
42 *who has evidence that is relevant to consideration of the petition to*  
43 *testify at the hearing on the petition; and*



(b) Take into consideration any reasonable concerns for the safety of the petitioner, family members of the petitioner or other victims that may be jeopardized by the granting of the petition.

5. If the court grants a petition filed pursuant to subsection 1, the court shall:

(a) Vacate the adjudication and dismiss the accusatory pleading; and

(b) Order sealed all records relating to the adjudication.

6. If a petition filed pursuant to subsection 1 does not satisfy the requirements of NRS 62H.130 or the juvenile court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the juvenile court may enter an order to vacate the adjudication and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the adjudication to be vacated.

7. If the juvenile court enters an order pursuant to subsection 6, the court shall also order sealed all records of the petitioner which relate to the adjudication being vacated in accordance with paragraph (b) of subsection 5, regardless of whether any records relating to other adjudications are ineligible for sealing either by operation of law or because of a deficiency in the petition.

**Sec. 5.** NRS 62H.130 is hereby amended to read as follows:

62H.130 1. If a child is less than 21 years of age, the child or a probation or parole officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child. ~~[(The)]~~ Except as otherwise provided in section 4 of this act, the petition may be filed:

(a) Not earlier than 3 years after the child was last adjudicated in need of supervision, adjudicated delinquent or placed under the supervision of the juvenile court pursuant to NRS 62C.230; and

(b) If, at the time the petition is filed, the child does not have any delinquent or criminal charges pending.

2. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and, if a probation or parole officer is not the petitioner, the chief probation officer or the Chief of the Youth Parole Bureau.

3. The district attorney and the chief probation officer or any of their deputies, the Chief of the Youth Parole Bureau or his or her designee, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

4. Except as otherwise provided in subsection 6, after the hearing on the petition, if the juvenile court finds that during the applicable 3-year period, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude and the



1 child has been rehabilitated to the satisfaction of the juvenile court,  
2 the juvenile court:

3 (a) May enter an order sealing all records relating to the child if  
4 the child is less than 18 years of age; and

5 (b) Shall enter an order sealing all records relating to the child if  
6 the child is 18 years of age or older.

7 5. In determining whether a child has been rehabilitated to the  
8 satisfaction of the juvenile court pursuant to subsection 4, the  
9 juvenile court may consider:

10 (a) The age of the child;

11 (b) The nature of the offense and the role of the child in the  
12 commission of the offense;

13 (c) The behavior of the child after the child was last adjudicated  
14 in need of supervision or adjudicated delinquent, placed under the  
15 informal supervision of a probation officer pursuant to NRS  
16 62C.200 or placed under the supervision of the juvenile court  
17 pursuant to NRS 62C.230;

18 (d) The response of the child to any treatment or rehabilitation  
19 program;

20 (e) The education and employment history of the child;

21 (f) The statement of the victim;

22 (g) The nature of any criminal offense for which the child was  
23 convicted;

24 (h) Whether the sealing of the record would be in the best  
25 interest of the child and the State; and

26 (i) Any other circumstance that may relate to the rehabilitation  
27 of the child.

28 6. If the juvenile court retains jurisdiction over a civil judgment  
29 and a person against whom the civil judgment was entered pursuant  
30 to NRS 62B.420, the case caption, case number and order entering  
31 the civil judgment must not be sealed until the civil judgment is  
32 satisfied or expires. After the civil judgment is satisfied or expires,  
33 the child or a person named as a judgment debtor may file a petition  
34 to seal such information.

35 **Sec. 6.** (Deleted by amendment.)

36 **Sec. 7.** (Deleted by amendment.)

37 **Sec. 8.** (Deleted by amendment.)

38 **Sec. 9.** (Deleted by amendment.)

39 **Sec. 10.** (Deleted by amendment.)

40 **Sec. 11.** (Deleted by amendment.)

41 **Sec. 12.** (Deleted by amendment.)



1     **Sec. 13.** Title 14 of NRS is hereby amended by adding thereto  
2 a new chapter to consist of the provisions set forth as sections 14 to  
3 15.8, inclusive, of this act.

4     **Sec. 14.** *Sections 14 to 15.8, inclusive, of this act may be*  
5 *cited as the Sexual Assault Survivors' Bill of Rights.*

6     **Sec. 14.1.** *As used in this chapter, unless the context*  
7 *otherwise requires, the words and terms defined in sections 14.2 to*  
8 *14.9, inclusive, of this act have the meaning ascribed to them in*  
9 *those sections.*

10    **Sec. 14.2.** *"CODIS" has the meaning ascribed to it in*  
11 *NRS 176.09113.*

12    **Sec. 14.3.** *"DNA profile" has the meaning ascribed to it in*  
13 *NRS 176.09115.*

14    **Sec. 14.4.** *"Forensic laboratory" has the meaning ascribed to*  
15 *it in NRS 176.09117.*

16    **Sec. 14.5.** *"Forensic medical examination" has the meaning*  
17 *ascribed to it in NRS 217.300.*

18    **Sec. 14.55.** *"Genetic marker analysis" has the meaning*  
19 *ascribed to it in NRS 176.09118.*

20    **Sec. 14.6.** *"Law enforcement agency" means any agency,*  
21 *office or bureau of this State or a political subdivision of this*  
22 *State, the primary duty of which is to enforce the law.*

23    **Sec. 14.7.** *"Sexual assault forensic evidence kit" has the*  
24 *meaning ascribed to it in NRS 200.364.*

25    **Sec. 14.8.** *"State DNA Database" means the database*  
26 *established pursuant to NRS 176.09121.*

27    **Sec. 14.9.** *"Survivor" means a person who is a victim of*  
28 *sexual assault, as defined in NRS 217.280 or, if the victim is*  
29 *incompetent, deceased or a minor, the parent, guardian, spouse,*  
30 *legal representative or other person related to the victim within the*  
31 *second degree of consanguinity or affinity, unless such person is*  
32 *the defendant or accused or is convicted of the sexual assault.*

33    **Sec. 15.** *The Legislature hereby finds and declares that:*

34    1. *Victims of sexual assault have a strong interest in the*  
35 *investigation and prosecution of their cases.*

36    2. *Law enforcement agencies have an obligation to victims of*  
37 *sexual assault to be responsive to the victims concerning the*  
38 *developments of forensic testing and the investigation of their*  
39 *cases.*

40    3. *The growth of the State DNA Database and CODIS makes*  
41 *it possible for many perpetrators of sexual assault to be identified*  
42 *after their first offense.*

43    **Sec. 15.2.** 1. *A survivor has the right to prompt genetic*  
44 *marker analysis of a sexual assault forensic evidence kit pursuant*  
45 *to NRS 200.3786.*



2. A sexual assault forensic evidence kit must be transported to a forensic laboratory and analyzed pursuant to NRS 200.3786, unless the survivor requests in writing at any time before such analysis, for the forensic laboratory to defer analysis of the sexual assault forensic evidence kit.

3. Biological evidence, including, without limitation, a sexual assault forensic evidence kit, secured in connection with the investigation or prosecution of a criminal case must be preserved and stored in accordance with the provisions of this subsection and NRS 176.0912. A sexual assault forensic evidence kit that is in the custody of an agency of criminal justice must be retained for:

(a) If the sexual assault forensic evidence kit is associated with an uncharged or unsolved sexual assault, at least 50 years.

(b) If the sexual assault forensic evidence kit is associated with an unreported or anonymous sexual assault, at least 20 years.

4. If a survivor has requested to defer analysis pursuant to subsection 2, the survivor may request that the forensic laboratory analyze the sexual assault forensic evidence kit at any later date before the expiration of the retention period pursuant to subsection 3.

5. A survivor has the right to the information regarding the timeline of the genetic marker analysis of sexual assault forensic evidence kits pursuant to NRS 200.3786.

**Sec. 15.4.** Upon the request of a survivor, he or she has the right to be informed of:

1. The results of the genetic marker analysis of the sexual assault forensic evidence kit of the survivor;

2. Whether the analysis yielded a DNA profile; and

3. Whether the analysis yielded the DNA profile of the defendant or person accused or convicted of a crime against the survivor or a person already in CODIS.

**Sec. 15.6.** The failure of a law enforcement agency to take possession of a sexual assault forensic evidence kit pursuant to the Sexual Assault Survivors' Bill of Rights, or the failure of the law enforcement agency to submit such evidence for genetic marker analysis within the timeline prescribed pursuant to the Bill of Rights, does not alter:

1. The authority of a law enforcement agency to take possession of that evidence or to submit that evidence to a forensic laboratory; and

2. The authority of the forensic laboratory to accept and analyze the evidence or to upload an eligible DNA profile obtained from such evidence to CODIS or the State DNA Database.





**Sec. 15.8.** *1. A defendant or person accused or convicted of a crime against a survivor does not have standing to seek to have his or her conviction or sentence set aside for any failure by a law enforcement agency, forensic laboratory or other relevant entity to comply with the timing requirements of the Sexual Assault Survivors' Bill of Rights.*

*2. Failure by a law enforcement agency, forensic laboratory or other relevant entity to comply with the requirements of the Sexual Assault Survivors' Bill of Rights does not constitute grounds for challenging the validity of a match or any information in the State DNA Database during any criminal or civil proceeding, and any evidence of such a match or any information in the State DNA Database must not be excluded by a court on such grounds.*

**Sec. 16.** (Deleted by amendment.)

**Sec. 17.** NRS 200.3782 is hereby amended to read as follows:

200.3782 1. A temporary order issued pursuant to NRS 200.378 expires within such time, not to exceed 30 days, as the court fixes. If a petition for an extended order is filed within the period of a temporary order, the temporary order remains in effect until the hearing on the extended order is held.

2. On 2 days' notice to the party who obtained the temporary order, the adverse party may appear and move its dissolution or modification, and in that event, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

3. An extended order expires within such time, not to exceed ~~1 year,~~ **3 years**, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than ~~1 year,~~ **3 years**.

4. A court shall enter a finding of fact providing the basis for the imposition of an extended order effective for more than 1 year.

5. At any time while the extended order is in effect, the party who obtained the extended order or the adverse party may appear and move for its dissolution or modification based on changes of circumstance of the parties, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

6. This section must not be construed to affect the right of an adverse party to an interlocutory appeal pursuant to NRS 33.030.

**Sec. 18.** (Deleted by amendment.)



**Sec. 19.** NRS 201.354 is hereby amended to read as follows:

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. A prostitute who violates subsection 1 is guilty of a misdemeanor. *A peace officer who:*

*(a) Detains, but does not arrest or issue a citation to a prostitute for a violation of subsection 1 shall, before releasing the prostitute, provide information regarding and opportunities for connecting with social service agencies that may provide assistance to the prostitute. The Department of Health and Human Services shall assist law enforcement agencies in providing information regarding and opportunities for connecting with such social service agencies pursuant to this paragraph.*

*(b) Arrests or issues a citation to a prostitute for a violation of subsection 1 shall, before the prostitute is released from custody or cited:*

*(1) Inform the prostitute that he or she may be eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032; and*

*(2) Provide the information regarding and opportunities for connecting with social service agencies described in paragraph (a).*

3. Except as otherwise provided in subsection 5, a customer who violates subsection 1:

(a) For a first offense, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150, and by a fine of not less than \$400.

(b) For a second offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$800.

(c) For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$1,300.

4. In addition to any other penalty imposed, the court shall order a person who violates subsection 3 to pay a civil penalty of not less than \$200 per offense. The civil penalty must be paid to the district attorney or city attorney of the jurisdiction in which the violation occurred. If the civil penalty imposed pursuant to this subsection:

(a) Is not within the person's present ability to pay, in lieu of paying the penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the civil penalty.



(b) Is not entirely within the person's present ability to pay, in lieu of paying the entire civil penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the civil penalty.

5. A customer who violates subsection 1 by soliciting a child for prostitution:

(a) For a first offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130, and by a fine of not more than \$5,000.

(b) For a second offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130. The court shall not grant probation to or suspend the sentence of a person punished pursuant to this paragraph.

6. Any civil penalty collected by a district attorney or city attorney pursuant to subsection 4 must be deposited in the county or city treasury, as applicable, to be used for:

(a) The enforcement of this section; and

(b) Programs of treatment for persons who solicit prostitution which are certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

➤ Not less than 50 percent of the money deposited in the county or city treasury, as applicable, pursuant to this subsection must be used for the enforcement of this section.

7. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation



of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the person for any purpose. Discharge and dismissal under this subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

8. Except as limited by subsection 9, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection 7, the court shall, without a hearing, order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

9. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

*10. If, at any time before the trial of a prostitute charged with a violation of subsection 1, the prosecuting attorney has reason to believe that the prostitute is a victim of sex trafficking, the prosecuting attorney shall dismiss the charge. As used in this subsection, "sex trafficking" means a violation of subsection 2 of NRS 201.300.*

**Sec. 20.** (Deleted by amendment.)

**Sec. 21.** (Deleted by amendment.)

**Sec. 22.** (Deleted by amendment.)

**Sec. 23.** (Deleted by amendment.)

**Sec. 24.** (Deleted by amendment.)

**Sec. 25.** NRS 388.1351 is hereby amended to read as follows:

388.1351 1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed



1 the violation or received information regarding the occurrence of a  
2 violation.

3 2. Except as otherwise provided in this subsection, upon  
4 receiving a report required by subsection 1, the administrator or  
5 designee shall immediately take any necessary action to stop the  
6 bullying or cyber-bullying and ensure the safety and well-being of  
7 the reported victim or victims of the bullying or cyber-bullying and  
8 shall begin an investigation into the report. If the administrator or  
9 designee does not have access to the reported victim of the alleged  
10 violation of NRS 388.135, the administrator or designee may wait  
11 until the next school day when he or she has such access to take the  
12 action required by this subsection.

13 3. The investigation conducted pursuant to subsection 2 must  
14 include, without limitation:

15 (a) Except as otherwise provided in subsection 4, notification  
16 provided by telephone, electronic mail or other electronic means or  
17 provided in person, of the parents or guardians of all pupils directly  
18 involved in the reported bullying or cyber-bullying, as applicable,  
19 either as a reported aggressor or a reported victim of the bullying or  
20 cyber-bullying. The notification must be provided:

21 (1) If the bullying or cyber-bullying is reported before the  
22 end of school hours on a school day, before the school's  
23 administrative office closes on the day on which the bullying or  
24 cyber-bullying is reported; or

25 (2) If the bullying or cyber-bullying was reported on a day  
26 that is not a school day, or after school hours on a school day, before  
27 the school's administrative office closes on the school day following  
28 the day on which the bullying or cyber-bullying is reported.

29 (b) Interviews with all pupils whose parents or guardians must  
30 be notified pursuant to paragraph (a) and with all such parents and  
31 guardians.

32 4. If the contact information for the parent or guardian of a  
33 pupil in the records of the school is not correct, a good faith  
34 effort to notify the parent or guardian shall be deemed sufficient to  
35 meet the requirement for notification pursuant to paragraph (a) of  
36 subsection 3.

37 5. Except as otherwise provided in this subsection, an  
38 investigation required by this section must be completed not later  
39 than 2 school days after the administrator or designee receives a  
40 report required by subsection 1. If extenuating circumstances  
41 prevent the administrator or designee from completing the  
42 investigation required by this section within 2 school days after  
43 making a good faith effort, 1 additional school day may be used to  
44 complete the investigation.



6. An administrator or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all parents or guardians who must be notified pursuant to paragraph (a) of subsection 3 as part of the investigation.

7. If a violation is found not to have occurred, information concerning the incident must not be included in the record of the reported aggressor.

8. Not later than 10 school days after receiving a report required by subsection 1, the administrator or designee shall meet with each reported victim of the bullying or cyber-bullying to inquire about the well-being of the reported victim and to ensure that the reported bullying or cyber-bullying, as applicable, is not continuing.

9. To the extent that information is available, the administrator or his or her designee shall provide a list of any resources that may be available in the community to assist a pupil to each parent or guardian of a pupil to whom notice was provided pursuant to this section as soon as practicable. Such a list may include, without limitation, resources available at no charge or at a reduced cost and may be provided in person or by electronic or regular mail. If such a list is provided, the administrator, his or her designee, or any employee of the school or the school district is not responsible for providing such resources to the pupil or ensuring the pupil receives such resources.

10. The parent or guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the administrator or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Not later than 30 days after receiving a response provided in accordance with such a policy, the parent or guardian may submit a complaint to the Department. The Department shall consider and respond to the complaint pursuant to procedures and standards prescribed in regulations adopted by the Department.

11. If a violation of NRS 388.135 is found to have occurred, the parent or guardian of a pupil who is a victim of bullying or



cyber-bullying may request that the board of trustees of the school district in which the pupil is enrolled to assign the pupil to a different school in the school district. Upon receiving such a request, the board of trustees shall, in consultation with the parent or guardian of the pupil, assign the pupil to a different school.

12. A principal or his or her designee shall submit a monthly report to the direct supervisor of the principal that includes for the school the number of:

(a) Reports received pursuant to subsection 1;

(b) Times in which a violation of NRS 388.135 is found to have occurred; and

(c) Times in which no violation of NRS 388.135 is found to have occurred.

13. A direct supervisor who receives a monthly report pursuant to subsection 12 shall, each calendar quarter, submit a report to the Office for a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter, the:

(a) Total number of reports received pursuant to subsection 1;

(b) Number of times in which a violation of NRS 388.135 is found to have occurred; and

(c) Number of times in which no violation of NRS 388.135 is found to have occurred.

14. School hours and school days are determined for the purposes of this section by the schedule established by the governing body for the school.

*15. The provisions of this section must not be construed to place any limit on the time within which an investigation concerning any alleged act that constitutes sexual assault must be completed.*

**Sec. 26.** Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Division shall ensure that each facility to which a person with an intellectual disability or a person with a developmental disability is able to be admitted pursuant to this chapter provides:*

*1. Training to each employee of the facility regarding the protocol that must be followed if the employee becomes aware of any sexual abuse of a person with an intellectual disability or a person with a developmental disability that is admitted to the facility; and*

*2. Education to each person with an intellectual disability or person with a developmental disability that is admitted to the facility which:*

*(a) Is appropriate with regard to the level of the person's intellectual and developmental abilities; and*



*(b) Explains what sexual abuse is and how to report sexual abuse.*

**Sec. 27.** NRS 441A.320 is hereby amended to read as follows:

441A.320 1. If the alleged victim or a witness to a crime alleges that the crime involved the sexual penetration of the victim's body, the health authority shall perform the tests set forth in subsection 2 as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than ~~48~~ 72 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than ~~48~~ 72 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act.

2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether the person or, if the person is a child, the parent or guardian of the child consents to providing the specimen. The agency that has custody of the arrested person shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.

3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.

4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection 2 or 3 to:

(a) The victim or to the victim's parent or guardian if the victim is a child; and

(b) The arrested person and, if the person is a child, to the parent or guardian of the child.

5. If the health authority determines, from the results of a test performed pursuant to subsection 2 or 3, that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him or her with:

(a) An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed;

(b) Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which





1 the health authority determines the victim may have been exposed;  
2 and

3 (c) A referral for health care and other assistance,  
4 ➤ as appropriate.

5 6. If the court in:

6 (a) A criminal proceeding determines that a person has  
7 committed a crime; or

8 (b) A proceeding conducted pursuant to title 5 of NRS  
9 determines that a child has committed an act which, if committed by  
10 an adult, would have constituted a crime,

11 ➤ involving the sexual penetration of a victim's body, the court  
12 shall, upon application by the health authority, order that child or  
13 other person to pay any expenses incurred in carrying out this  
14 section with regard to that child or other person and that victim.

15 7. The Board shall adopt regulations identifying, for the  
16 purposes of this section, sexually transmitted diseases which are  
17 commonly contracted.

18 8. As used in this section:

19 (a) "Sexual assault" means a violation of NRS 200.366.

20 (b) "Sexual penetration" has the meaning ascribed to it in  
21 NRS 200.364.

22 **Sec. 27.3.** (Deleted by amendment.)

23 **Sec. 28.** (Deleted by amendment.)

