

SENATE BILL NO. 383—SENATORS SCHEIBLE AND RATTI

MARCH 20, 2019

Referred to Committee on Judiciary

SUMMARY—Establishes provisions relating to sexual conduct between a law enforcement officer and certain other persons. (BDR 3-113)

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 sexual conduct; establishing a rebuttable presumption in civil actions concerning unwelcome or nonconsensual sexual conduct between a law enforcement officer and a person in his or her custody; prohibiting sexual conduct between a law enforcement officer and a person who is under arrest or is currently detained by any law enforcement officer; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a person from voluntarily engaging in sexual conduct with a prisoner who is in lawful custody or confinement and provides that any person who violates such a prohibition is guilty of a category D felony. (NRS 212.187) **Section 1.5** of this bill provides that if a law enforcement officer voluntarily engages in sexual conduct with a person who is under arrest or is currently detained by the law enforcement officer or any other law enforcement officer, the law enforcement officer is guilty of a category D felony. **Section 1.5** also provides that the consent of a person who was under arrest or detained by any law enforcement officer to any sexual conduct with a law enforcement officer is not a defense to a prosecution for such unlawful sexual conduct.

**Section 1** of this bill establishes a rebuttable presumption in any civil action concerning any unwelcome or nonconsensual sexual conduct, including sexual harassment, that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.



\* S B 3 8 3 R 1 \*

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

**Section 1.** 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 law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.*

*2. As used in this section, "sexual harassment" has the meaning ascribed to it in NRS 176A.280.*

**Sec. 1.5.** Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Unless an act committed in violation of this section constitutes sexual assault pursuant to NRS 200.366, a law enforcement officer who voluntarily engages in sexual conduct with a person who is under arrest or is currently detained by the law enforcement officer or any other law enforcement officer is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

*2. The consent of a person who was under arrest or detained by any law enforcement officer to any sexual conduct with a law enforcement officer is not a defense to a prosecution for any act prohibited by this section.*

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

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

*(b) Does not include acts of a law enforcement officer that are performed to carry out the necessary duties of the law enforcement officer.*

**Sec. 2.** (Deleted by amendment.)

