

ASSEMBLY BILL NO. 342—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SUNSET SUBCOMMITTEE
OF THE LEGISLATIVE COMMISSION)

MARCH 19, 2021

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to offenders.
(BDR 16-511)

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

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

AN ACT relating to offenders; revising the frequency of the review of standards adopted by the State Board of Parole Commissioners relating to the granting and revocation of parole; revising provisions relating to the program of lifetime supervision of sex offenders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Parole Commissioners: (1) to adopt by regulation standards to assist the Board in determining whether to grant or revoke parole; and (2) to review the effectiveness of those standards on or before January 1 of each odd-numbered year. (NRS 213.10885) **Section 1** of this bill revises the frequency of the review of the standards adopted by the Board by providing that the standards must be reviewed at least once every 5 years.

Existing law provides that if a defendant is convicted of a sexual offense, the court is required to include in sentencing a special sentence of lifetime supervision, which commences after any period of probation or any term of imprisonment and any period of release on parole. (NRS 176.0931) Existing law also requires the Board: (1) to establish by regulation a program of lifetime supervision of sex offenders; and (2) to establish the conditions of lifetime supervision for each sex offender who is subject to lifetime supervision. (NRS 213.1243)

Section 2 of this bill provides that on and after July 1, 2021, the effective date of this bill, the Board will only be responsible for establishing the program of lifetime supervision and establishing the conditions of lifetime supervision for a sex offender who is sentenced before July 1, 2021. **Section 3** of this bill: (1) transfers from the Board to the sentencing court all the current duties and responsibilities relating to lifetime supervision of sex offenders for sex offenders sentenced on or



after July 1, 2021; and (2) moves all related provisions governing lifetime supervision, such as the existing criminal penalties for intentionally removing or disabling an electronic monitoring device or for violating a condition of lifetime supervision, to the appropriate section of the Nevada Revised Statutes pertaining to imposition of the special sentence of lifetime supervision by the sentencing court. **Section 3** provides that the sentencing court is responsible, on and after July 1, 2021, for establishing the conditions of lifetime supervision for a sex offender sentenced on or after July 1, 2021.

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

Section 1. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

(a) Who committed a capital offense.

(b) Who was sentenced to serve a term of imprisonment for life.

(c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.

(d) Who was convicted as a habitual criminal.

(e) Who is a repeat offender.

(f) Who was convicted of any other type of offense.

➤ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

(a) The severity of the crime committed;

(b) The criminal history of the person;

(c) Any disciplinary action taken against the person while incarcerated;

(d) Any previous parole violations or failures;

(e) Any potential threat to society or to the convicted person; and

(f) The length of his or her incarceration.

3. In determining whether to grant parole to a convicted person, the Board shall not consider whether the person has



1 appealed the judgment of imprisonment for which the person is
2 being considered for parole.

3 4. The standards adopted by the Board must provide for a
4 greater punishment for a convicted person who has a history of
5 repetitive criminal conduct or who commits a serious crime, with a
6 violent crime considered the most serious, than for a convicted
7 person who does not have a history of repetitive crimes and did not
8 commit a serious crime.

9 5. The Board shall make available to the public a sample of the
10 form the Board uses in determining the probability that a convicted
11 person will live and remain at liberty without violating the law if
12 parole is granted or continued.

13 6. ~~[On or before January 1 of each odd-numbered year,]~~ *At*
14 *least once every 5 years,* the Board shall review comprehensively
15 the standards adopted by the Board. The review must include a
16 determination of whether the standards are effective in predicting
17 the probability that a convicted person will live and remain at liberty
18 without violating the law if parole is granted or continued. If a
19 standard is found to be ineffective, the Board shall not use that
20 standard in its decisions regarding parole and shall adopt revised
21 standards as soon as practicable after the review.

22 7. The Board shall report to each regular session of the
23 Legislature:

24 (a) The number and percentage of the Board's decisions that
25 conflicted with the standards;

26 (b) The results and conclusions from the Board's review
27 pursuant to subsection 6; and

28 (c) Any changes in the Board's standards, policies, procedures,
29 programs or forms that have been or will be made as a result of the
30 review.

31 **Sec. 2.** NRS 213.1243 is hereby amended to read as follows:

32 213.1243 1. The Board shall establish by regulation a
33 program of lifetime supervision of sex offenders to commence after
34 any period of probation or any term of imprisonment and any period
35 of release on parole. The program must provide for the lifetime
36 supervision of sex offenders by parole and probation officers.

37 2. Lifetime supervision shall be deemed a form of parole for:

38 (a) The limited purposes of the applicability of the provisions of
39 NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and
40 subsection 2 of NRS 213.110; and

41 (b) The purposes of the Interstate Compact for Adult Offender
42 Supervision ratified, enacted and entered into by the State of Nevada
43 pursuant to NRS 213.215.



3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his or her current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

5. Except as otherwise provided in subsection 9, if ~~the~~ the sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

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

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



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

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 5 shall:

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

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

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

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him or her pursuant to the program of lifetime supervision 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.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of the sex offender, unless approved by the Chief or his or her designee and a written agreement is entered into and signed.

11. The Board shall require as a condition of lifetime supervision, in addition to any other condition imposed pursuant to this section, that the sex offender:

(a) Participate in and complete a program of professional counseling approved by the Division, unless, before commencing a program of lifetime supervision, the sex offender previously completed a program of professional counseling recommended or



ordered by the Board or the court upon conviction of the sexual offense for which the sex offender will be placed under a program of lifetime supervision.

(b) Not use aliases or fictitious names.

(c) Not possess any sexually explicit material that is harmful to minors as defined in NRS 201.257.

(d) Not enter, visit or patronize an establishment which offers a sexually related form of entertainment as its primary business.

(e) Inform the parole and probation officer assigned to the sex offender of any post office box used by the sex offender.

12. If the sex offender is convicted of a sexual offense involving the use of the Internet, the Board shall require, in addition to any other condition imposed pursuant to this section, that the sex offender not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless the sex offender installs a device or subscribes to a service which enables the parole and probation officer assigned to the sex offender to regulate the sex offender's use of the Internet. The provisions of this subsection do not apply to a device used by a sex offender within the course and scope of his or her employment.

13. If the sex offender is convicted of a sexual offense involving the use of alcohol, cannabis or a controlled substance, the Board shall require, in addition to any other condition imposed pursuant to this section, that the sex offender participate in and complete a program of counseling pertaining to substance use disorders approved by the Division, unless, before commencing a program of lifetime supervision, the sex offender previously completed a program of counseling pertaining to substance use disorders recommended or ordered by the Board or the court upon conviction of the sexual offense for which the sex offender will be placed under a program of lifetime supervision.

14. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

15. For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him or her pursuant to the program of lifetime supervision:

(a) In which the violation occurred outside this State, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the



1 violation took place, in whole or in part, outside that county or
2 outside this State; or

3 (b) In which the violation occurred within this State, the
4 violation shall be deemed to have occurred in, and may only be
5 prosecuted in, the county in which the violation occurred.

6 *16. The provisions of this section apply only to a sex offender*
7 *who is sentenced before July 1, 2021.*

8 **Sec. 3.** NRS 176.0931 is hereby amended to read as follows:

9 176.0931 1. If a defendant is convicted of a sexual offense,
10 the court shall include in sentencing, in addition to any other
11 penalties provided by law, a special sentence of lifetime supervision
12 *that provides for the lifetime supervision of the defendant, as a*
13 *sex offender, by parole and probation officers.*

14 2. The special sentence of lifetime supervision commences
15 after any period of probation or any term of imprisonment and any
16 period of release on parole. *Lifetime supervision shall be deemed a*
17 *form of parole for:*

18 (a) *The limited purposes of the applicability of the provisions*
19 *of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096*
20 *and subsection 2 of NRS 213.110; and*

21 (b) *The purposes of the Interstate Compact for Adult Offender*
22 *Supervision ratified, enacted and entered into by the State of*
23 *Nevada pursuant to NRS 213.215.*

24 3. *Except as otherwise provided in subsection 9, the court*
25 *shall require as a condition of lifetime supervision that the sex*
26 *offender reside at a location only if:*

27 (a) *The residence has been approved by the parole and*
28 *probation officer assigned to the person.*

29 (b) *If the residence is a facility that houses more than three*
30 *persons who have been released from prison, the facility is a*
31 *facility for transitional living for released offenders that is*
32 *licensed pursuant to chapter 449 of NRS.*

33 (c) *The person keeps the parole and probation officer*
34 *informed of his or her current address.*

35 4. *Except as otherwise provided in subsection 9, the court*
36 *shall require as a condition of lifetime supervision that the sex*
37 *offender, unless approved by the parole and probation officer*
38 *assigned to the sex offender and by a psychiatrist, psychologist or*
39 *counselor treating the sex offender, if any, not knowingly be*
40 *within 500 feet of any place, or if the place is a structure, within*
41 *500 feet of the actual structure, that is designed primarily for use*
42 *by or for children, including, without limitation, a public or*
43 *private school, a school bus stop, a center or facility that provides*
44 *day care services, a video arcade, an amusement park, a*
45 *playground, a park, an athletic field or a facility for youth sports,*



1 *or a motion picture theater. The provisions of this subsection*
2 *apply only to a sex offender who is a Tier 3 offender.*

3 *5. Except as otherwise provided in subsection 9, if the sex*
4 *offender is convicted of a sexual offense listed in subsection 6 of*
5 *NRS 213.1255 against a child under the age of 14 years, the sex*
6 *offender is a Tier 3 offender and the sex offender is sentenced to*
7 *lifetime supervision, the court shall require as a condition of*
8 *lifetime supervision that the sex offender:*

9 *(a) Reside at a location only if the residence is not located*
10 *within 1,000 feet of any place, or if the place is a structure, within*
11 *1,000 feet of the actual structure, that is designed primarily for use*
12 *by or for children, including, without limitation, a public or*
13 *private school, a school bus stop, a center or facility that provides*
14 *day care services, a video arcade, an amusement park, a*
15 *playground, a park, an athletic field or a facility for youth sports,*
16 *or a motion picture theater.*

17 *(b) As deemed appropriate by the Chief, be placed under a*
18 *system of active electronic monitoring that is capable of*
19 *identifying his or her location and producing, upon request,*
20 *reports or records of his or her presence near or within a crime*
21 *scene or prohibited area or his or her departure from a specified*
22 *geographic location.*

23 *(c) Pay any costs associated with his or her participation under*
24 *the system of active electronic monitoring, to the extent of his or*
25 *her ability to pay.*

26 *6. A sex offender placed under the system of active electronic*
27 *monitoring pursuant to subsection 5 shall:*

28 *(a) Follow the instructions provided by the Division to*
29 *maintain the electronic monitoring device in working order.*

30 *(b) Report any incidental damage or defacement of the*
31 *electronic monitoring device to the Division within 2 hours after*
32 *the occurrence of the damage or defacement.*

33 *(c) Abide by any other conditions set forth by the Division with*
34 *regard to his or her participation under the system of active*
35 *electronic monitoring.*

36 *7. Except as otherwise provided in this subsection, a person*
37 *who intentionally removes or disables or attempts to remove or*
38 *disable an electronic monitoring device placed on a sex offender*
39 *pursuant to this section is guilty of a gross misdemeanor. The*
40 *provisions of this subsection do not prohibit a person authorized*
41 *by the Division from performing maintenance or repairs to an*
42 *electronic monitoring device.*

43 *8. Except as otherwise provided in subsection 7, a sex*
44 *offender who commits a violation of a condition imposed on him*
45 *or her pursuant to the program of lifetime supervision is guilty of*



1 *a category B felony and shall be punished by imprisonment in the*
2 *state prison for a minimum term of not less than 1 year and a*
3 *maximum term of not more than 6 years, and may be further*
4 *punished by a fine of not more than \$5,000.*

5 *9. The court is not required to impose a condition pursuant to*
6 *the program of lifetime supervision listed in subsections 3, 4 and 5*
7 *if the court finds that extraordinary circumstances are present and*
8 *the court states those extraordinary circumstances in writing.*

9 *10. The court shall require as a condition of lifetime*
10 *supervision that the sex offender not have contact or communicate*
11 *with a victim of the sexual offense or a witness who testified*
12 *against the sex offender or solicit another person to engage in*
13 *such contact or communication on behalf of the sex offender,*
14 *unless approved by the Chief or his or her designee and a written*
15 *agreement is entered into and signed.*

16 *11. The court shall require as a condition of lifetime*
17 *supervision, in addition to any other condition imposed pursuant*
18 *to this section, that the sex offender:*

19 *(a) Participate in and complete a program of professional*
20 *counseling approved by the Division, unless, before commencing a*
21 *program of lifetime supervision, the sex offender previously*
22 *completed a program of professional counseling recommended or*
23 *ordered by the Board or the court upon conviction of the sexual*
24 *offense for which the sex offender will be placed under a program*
25 *of lifetime supervision.*

26 *(b) Not use aliases or fictitious names.*

27 *(c) Not possess any sexually explicit material that is harmful to*
28 *minors as defined in NRS 201.257.*

29 *(d) Not enter, visit or patronize an establishment which offers*
30 *a sexually related form of entertainment as its primary business.*

31 *(e) Inform the parole and probation officer assigned to the sex*
32 *offender of any post office box used by the sex offender.*

33 *12. If the sex offender is convicted of a sexual offense*
34 *involving the use of the Internet, the court shall require, in*
35 *addition to any other condition imposed pursuant to this section,*
36 *that the sex offender not possess any electronic device capable of*
37 *accessing the Internet and not access the Internet through any*
38 *such device or any other means, unless the sex offender installs a*
39 *device or subscribes to a service which enables the parole and*
40 *probation officer assigned to the sex offender to regulate the sex*
41 *offender's use of the Internet. The provisions of this subsection do*
42 *not apply to a device used by a sex offender within the course and*
43 *scope of his or her employment.*

44 *13. If the sex offender is convicted of a sexual offense*
45 *involving the use of alcohol, cannabis or a controlled substance,*



1 *the court shall require, in addition to any other condition imposed*
2 *pursuant to this section, that the sex offender participate in and*
3 *complete a program of counseling pertaining to substance use*
4 *disorders approved by the Division, unless, before commencing a*
5 *program of lifetime supervision, the sex offender previously*
6 *completed a program of counseling pertaining to substance use*
7 *disorders recommended or ordered by the Board or the court upon*
8 *conviction of the sexual offense for which the sex offender will be*
9 *placed under a program of lifetime supervision.*

10 *14. If a court issues a warrant for arrest for a violation of this*
11 *section, the court shall cause to be transmitted, in the manner*
12 *prescribed by the Central Repository for Nevada Records of*
13 *Criminal History, notice of the issuance of the warrant for arrest*
14 *in a manner which ensures that such notice is received by the*
15 *Central Repository within 3 business days.*

16 *15. For the purposes of prosecution of a violation by a sex*
17 *offender of a condition imposed upon him or her pursuant to the*
18 *program of lifetime supervision:*

19 *(a) In which the violation occurred outside this State, the*
20 *violation shall be deemed to have occurred in, and may only be*
21 *prosecuted in, the county in which the court that imposed the*
22 *sentence of lifetime supervision pursuant to this section is located,*
23 *regardless of whether the acts or conduct constituting the violation*
24 *took place, in whole or in part, outside that county or outside this*
25 *State; or*

26 *(b) In which the violation occurred within this State, the*
27 *violation shall be deemed to have occurred in, and may only be*
28 *prosecuted in, the county in which the violation occurred.*

29 *16. A person sentenced to lifetime supervision may petition the*
30 *sentencing court ~~for the State Board of Parole Commissioners~~ for*
31 *release from lifetime supervision. The sentencing court ~~for the~~*
32 *~~Board~~ shall grant a petition for release from a special sentence of*
33 *lifetime supervision if:*

34 *(a) The person has complied with the requirements of the*
35 *provisions of NRS 179D.010 to 179D.550, inclusive;*

36 *(b) The person has not been convicted of an offense that poses a*
37 *threat to the safety or well-being of others for an interval of at least*
38 *10 consecutive years after the person's last conviction or release*
39 *from incarceration, whichever occurs later; and*

40 *(c) The person is not likely to pose a threat to the safety of*
41 *others, as determined by a person professionally qualified to*
42 *conduct psychosexual evaluations, if released from lifetime*
43 *supervision.*

44 ~~[4.]~~ *17. A person who is released from lifetime supervision*
45 *pursuant to the provisions of subsection ~~[3.]~~ 16 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.

~~15.1~~ 18. As used in this section:

(a) ***"Board" means the State Board of Parole Commissioners.***

(b) ***"Chief" means the Chief Parole and Probation Officer.***

(c) "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.

~~18.1~~ (d) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

~~18.2~~ (e) ***"Sex offender" means any person who has been or is convicted of a sexual offense.***

(f) "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, 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



1 (3) An act of murder in the first or second degree,
2 kidnapping in the first or second degree, false imprisonment,
3 burglary or invasion of the home if the act is determined to be
4 sexually motivated at a hearing conducted pursuant to NRS 175.547.

5 **Sec. 4.** This act becomes effective on July 1, 2021.

