

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.

~

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. Additionally, existing law provides that if a court issues a warrant for arrest for a violation of a condition of lifetime supervision, the court is required to cause notice of the issuance of the warrant to be transmitted to the Central Repository for Nevada Records of Criminal History within 3 business days. (NRS 213.1243)

**Section 2** of this bill: (1) 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; and (2) eliminates the requirement that the court cause notice of the issuance of a warrant for arrest for a violation of a condition of lifetime supervision to be transmitted to the Central Repository within 3 business days.

**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.

Existing law provides that a person sentenced to lifetime supervision may petition for release from lifetime supervision. For such a petition to be granted, in addition to other requirements, the person must show that he or she is not likely to pose a threat to the safety of others if released from lifetime supervision, as determined by a person professionally qualified to conduct psychosexual evaluations. (NRS 176.0931) **Section 3** allows a licensed, clinical professional who has received training in the treatment of sex offenders to make such a determination.

---

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



1 granted or continued. The other factors the Board considers must  
2 include, but are not limited to:

- 3 (a) The severity of the crime committed;
- 4 (b) The criminal history of the person;
- 5 (c) Any disciplinary action taken against the person while  
6 incarcerated;
- 7 (d) Any previous parole violations or failures;
- 8 (e) Any potential threat to society or to the convicted person;  
9 and
- 10 (f) The length of his or her incarceration.

11 3. In determining whether to grant parole to a convicted  
12 person, the Board shall not consider whether the person has  
13 appealed the judgment of imprisonment for which the person is  
14 being considered for parole.

15 4. The standards adopted by the Board must provide for a  
16 greater punishment for a convicted person who has a history of  
17 repetitive criminal conduct or who commits a serious crime, with a  
18 violent crime considered the most serious, than for a convicted  
19 person who does not have a history of repetitive crimes and did not  
20 commit a serious crime.

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

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

34 7. The Board shall report to each regular session of the  
35 Legislature:

- 36 (a) The number and percentage of the Board's decisions that  
37 conflicted with the standards;
- 38 (b) The results and conclusions from the Board's review  
39 pursuant to subsection 6; and
- 40 (c) Any changes in the Board's standards, policies, procedures,  
41 programs or forms that have been or will be made as a result of the  
42 review.

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

44 213.1243 1. The Board shall establish by regulation a  
45 program of lifetime supervision of sex offenders to commence after



1 any period of probation or any term of imprisonment and any period  
2 of release on parole. The program must provide for the lifetime  
3 supervision of sex offenders by parole and probation officers.

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

5 (a) The limited purposes of the applicability of the provisions of  
6 NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and  
7 subsection 2 of NRS 213.110; and

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

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

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

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

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

22 4. Except as otherwise provided in subsection 9, the Board  
23 shall require as a condition of lifetime supervision that the sex  
24 offender, unless approved by the parole and probation officer  
25 assigned to the sex offender and by a psychiatrist, psychologist or  
26 counselor treating the sex offender, if any, not knowingly be within  
27 500 feet of any place, or if the place is a structure, within 500 feet of  
28 the actual structure, that is designed primarily for use by or for  
29 children, including, without limitation, a public or private school, a  
30 school bus stop, a center or facility that provides day care services, a  
31 video arcade, an amusement park, a playground, a park, an athletic  
32 field or a facility for youth sports, or a motion picture theater. The  
33 provisions of this subsection apply only to a sex offender who is a  
34 Tier 3 offender.

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

41 (a) Reside at a location only if the residence is not located  
42 within 1,000 feet of any place, or if the place is a structure, within  
43 1,000 feet of the actual structure, that is designed primarily for use  
44 by or for children, including, without limitation, a public or private  
45 school, a school bus stop, a center or facility that provides day care



1 services, a video arcade, an amusement park, a playground, a park,  
2 an athletic field or a facility for youth sports, or a motion picture  
3 theater.

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

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

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

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

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

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

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

29 8. Except as otherwise provided in subsection 7, a sex offender  
30 who commits a violation of a condition imposed on him or her  
31 pursuant to the program of lifetime supervision is guilty of a  
32 category B felony and shall be punished by imprisonment in the  
33 state prison for a minimum term of not less than 1 year and a  
34 maximum term of not more than 6 years, and may be further  
35 punished by a fine of not more than \$5,000.

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

40 10. The Board shall require as a condition of lifetime  
41 supervision that the sex offender not have contact or communicate  
42 with a victim of the sexual offense or a witness who testified against  
43 the sex offender or solicit another person to engage in such contact  
44 or communication on behalf of the sex offender, unless approved by



1 the Chief or his or her designee and a written agreement is entered  
2 into and signed.

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

6 (a) Participate in and complete a program of professional  
7 counseling approved by the Division, unless, before commencing a  
8 program of lifetime supervision, the sex offender previously  
9 completed a program of professional counseling recommended or  
10 ordered by the Board or the court upon conviction of the sexual  
11 offense for which the sex offender will be placed under a program  
12 of lifetime supervision.

13 (b) Not use aliases or fictitious names.

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

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

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

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

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

41 14. ~~If a court issues a warrant for arrest for a violation of this~~  
42 ~~section, the court shall cause to be transmitted, in the manner~~  
43 ~~prescribed by the Central Repository for Nevada Records of~~  
44 ~~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 violation took place, in whole or in part, outside that county or outside this State; or

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

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

**Sec. 3.** 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 ~~[ ]~~ *[ ] that provides for the lifetime supervision of the defendant, as a sex offender, by parole and probation officers. The court shall, at the time of sentencing, impose the conditions of lifetime supervision in accordance with the provisions of this section.*

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

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

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

3. *Except as otherwise provided in subsection 9, the court 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 court 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 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 court 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.



\* A B 3 4 2 R 1 \*



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

10. The court 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 court 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 court 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 court 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. 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 this section is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, outside that county or outside this State; or

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

15. A person sentenced to lifetime supervision may petition the sentencing court ~~for the State Board of Parole Commissioners~~ for release from lifetime supervision. The sentencing court ~~for 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



1 10 consecutive years after the person's last conviction or release  
2 from incarceration, whichever occurs later; and

3 (c) The person is not likely to pose a threat to the safety of  
4 others, as determined by a ~~[person professionally qualified to~~  
5 ~~conduct psychosexual evaluations,]~~ *licensed, clinical professional*  
6 *who has received training in the treatment of sex offenders,* if  
7 released from lifetime supervision.

8 ~~[4.]~~ 16. A person who is released from lifetime supervision  
9 pursuant to the provisions of subsection ~~[3]~~ 15 remains subject to  
10 the provisions for registration as a sex offender and to the provisions  
11 for community notification, unless the person is otherwise relieved  
12 from the operation of those provisions pursuant to the provisions of  
13 NRS 179D.010 to 179D.550, inclusive.

14 ~~[5.]~~ 17. As used in this section:

15 (a) *“Board” means the State Board of Parole Commissioners.*

16 (b) *“Chief” means the Chief Parole and Probation Officer.*

17 (c) “Offense that poses a threat to the safety or well-being of  
18 others” includes, without limitation:

19 (1) An offense that involves:

20 (I) A victim less than 18 years of age;

21 (II) A crime against a child as defined in  
22 NRS 179D.0357;

23 (III) A sexual offense as defined in NRS 179D.097;

24 (IV) A deadly weapon, explosives or a firearm;

25 (V) The use or threatened use of force or violence;

26 (VI) Physical or mental abuse;

27 (VII) Death or bodily injury;

28 (VIII) An act of domestic violence;

29 (IX) Harassment, stalking, threats of any kind or other  
30 similar acts;

31 (X) The forcible or unlawful entry of a home, building,  
32 structure, vehicle or other real or personal property; or

33 (XI) The infliction or threatened infliction of damage or  
34 injury, in whole or in part, to real or personal property.

35 (2) Any offense listed in subparagraph (1) that is committed  
36 in this State or another jurisdiction, including, without limitation, an  
37 offense prosecuted in:

38 (I) A tribal court.

39 (II) A court of the United States or the Armed Forces of  
40 the United States.

41 ~~[(b) “Person professionally qualified to conduct psychosexual~~  
42 ~~evaluations” has the meaning ascribed to it in NRS 176.133.~~

43 ~~—(e)]~~ (d) *“Sex offender” means any person who has been or is*  
44 *convicted of a sexual offense.*

45 (e) “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

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

