

SENATE BILL NO. 121—SENATORS BUCK, KRASNER; AND STONE

FEBRUARY 8, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to offenses against children. (BDR 15-29)

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

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

AN ACT relating to crimes; raising the minimum age at which a person may consent to sexual conduct; revising various provisions relating to sexual conduct involving children; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes 16 years of age the legal age of consent for sexual conduct in this State. Therefore, with limited exception, a person who is 18 years of age or older and who engages in sexual conduct with a person who is under 16 years of age is guilty of statutory sexual seduction or sexual assault. (NRS 200.364, 200.366, 200.368) Existing law exempts from this prohibition sexual conduct committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is not more than 4 years younger than the person. (NRS 200.364, 200.368) **Section 1** of this bill raises, from 16 to 17 years of age, the minimum age at which a person may consent to sexual conduct. **Sections 2-11** of this bill make conforming changes to provisions relating to certain sexual conduct involving persons under the legal age of consent to reflect the increase in the minimum legal age of consent prescribed by **section 1**.

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

Section 1. NRS 200.364 is hereby amended to read as follows:
200.364 As used in NRS 200.364 to 200.3788, inclusive,
unless the context otherwise requires:

1. “Forensic laboratory” has the meaning ascribed to it in
NRS 176.09117.



2. "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

3. "Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.

4. "Offense involving a pupil or child" means any of the following offenses:

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

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

(c) Sexual conduct between certain employees or contractors of or volunteers for an entity which provides services to children and a person under the care, custody, control or supervision of the entity pursuant to NRS 201.555.

5. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or child or sex trafficking.

6. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

7. "Sexual assault forensic evidence kit" means the forensic evidence obtained from a forensic medical examination.

8. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

9. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.

10. "Statutory sexual seduction" means ordinary sexual intercourse, anal intercourse or sexual penetration committed by a person 18 years of age or older with a person who is 14, ~~14 or~~ 15 or 16 years of age and who is at least 4 years younger than the perpetrator.

11. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or child or sex trafficking.

12. "Victim of sexual assault" has the meaning ascribed to it in NRS 217.280.

Sec. 2. NRS 200.727 is hereby amended to read as follows:

200.727 1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of ~~16~~ 17 years engaging in or simulating sexual conduct, uses the Internet to control such a film, photograph or other visual presentation is guilty of:



(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, 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.

2. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

Sec. 3. NRS 200.730 is hereby amended to read as follows:

200.730 A person who knowingly and willfully has in his or her possession for any purpose any film, photograph or other visual presentation depicting a person under the age of ~~H6~~ 17 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct:

1. For the first offense, 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.

2. For any subsequent offense, is guilty of a category A 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 life with the possibility of parole, and may be further punished by a fine of not more than \$5,000.

Sec. 4. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person is guilty of lewdness with a child if he or she:

(a) Is 18 years of age or older and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of ~~H6~~ 17 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child; or

(b) Is under the age of 18 years and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child.

2. Except as otherwise provided in subsections 4 and 5, a person who commits lewdness with a child under the age of 14 years is guilty of a category A felony and shall be punished by



1 imprisonment in the state prison for life with the possibility of
2 parole, with eligibility for parole beginning when a minimum of 10
3 years has been served, and may be further punished by a fine of not
4 more than \$10,000.

5 3. Except as otherwise provided in subsection 4, a person who
6 commits lewdness with a child who is 14, ~~for~~ 15 ~~or~~ 16 years of age
7 is guilty of a category B felony and shall be punished by
8 imprisonment in the state prison for a minimum term of not less
9 than 1 year and a maximum term of not more than 10 years and may
10 be further punished by a fine of not more than \$10,000.

11 4. Except as otherwise provided in subsection 5, a person who
12 commits lewdness with a child and who has been previously
13 convicted of:

14 (a) Lewdness with a child pursuant to this section or any other
15 sexual offense against a child; or

16 (b) An offense committed in another jurisdiction that, if
17 committed in this State, would constitute lewdness with a child
18 pursuant to this section or any other sexual offense against a child,
19 ➤ is guilty of a category A felony and shall be punished by
20 imprisonment in the state prison for life without the possibility of
21 parole.

22 5. A person who is under the age of 18 years and who commits
23 lewdness with a child under the age of 14 years commits a
24 delinquent act.

25 6. For the purpose of this section, "other sexual offense against
26 a child" has the meaning ascribed to it in subsection 6 of
27 NRS 200.366.

28 **Sec. 5.** NRS 201.540 is hereby amended to read as follows:

29 201.540 1. Except as otherwise provided in subsection 2, a
30 person who:

31 (a) Is 21 years of age or older;

32 (b) Is or was employed by a public school or private school in a
33 position of authority or is or was volunteering at a public or private
34 school in a position of authority; and

35 (c) Engages in sexual conduct with a pupil who is ~~14~~ 17 years
36 of age or older, who has not received a high school diploma, a
37 general educational development certificate or an equivalent
38 document and:

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

42 (2) With whom the person has had contact in the course of
43 performing his or her duties as an employee or volunteer,

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



2. The provisions of this section do not apply to a person who is married to the pupil at the time an act prohibited by this section is committed.

3. The provisions of this section must not be construed to apply to sexual conduct between two pupils.

Sec. 6. NRS 201.550 is hereby amended to read as follows:

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

(a) Is 21 years of age or older;

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

(c) Engages in sexual conduct with a student who is ~~16~~ 17 years of age or older, who has not received a high school diploma, a general educational development certificate or an equivalent document and who is enrolled in or attending the college or university at which the person is employed,

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

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

(a) A teacher, instructor or professor;

(b) An administrator; or

(c) A head or assistant coach.

3. The provisions of this section do not apply to a person who is married to the student at the time an act prohibited by this section is committed.

4. The provisions of this section must not be construed to apply to sexual conduct between two students.

Sec. 7. NRS 201.555 is hereby amended to read as follows:

201.555 1. Except as otherwise provided in subsection 2, a person who:

(a) Is 25 years of age or older;

(b) Is in a position of authority as an employee or contractor of or volunteer for an entity which provides services to children; and

(c) Engages in sexual conduct with a person who is ~~16 years of age or older but less than 18~~ 17 years of age and:

(1) Who is under the care, custody, control or supervision of the entity at which the person is employed or volunteering or of which the person is a contractor; and

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



2. The provisions of this section do not apply to a person who is an employee or contractor of or volunteer for an entity which provides services to children and who is married to the person under the care, custody, control or supervision of the entity at the time an act prohibited by this section is committed.

3. A person convicted pursuant to this section is not subject to the registration or community notification requirements of chapter 179D of NRS.

4. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Department of juvenile justice services" means:

(1) In a county whose population is less than 100,000, the probation department of the juvenile court established pursuant to NRS 62G.010 to 62G.070, inclusive;

(2) In a county whose population is 100,000 or more but less than 700,000, the department of juvenile services established pursuant to NRS 62G.100 to 62G.170, inclusive; and

(3) In a county whose population is 700,000 or more, the department of juvenile justice services established by ordinance pursuant to NRS 62G.210 or, if a department of juvenile justice services has not been established by ordinance pursuant to NRS 62G.210, the department of juvenile justice services established pursuant to NRS 62G.300 to 62G.370, inclusive.

(c) "Entity which provides services to children" means:

(1) An agency which provides child welfare services;

(2) A department of juvenile justice services;

(3) A foster home; or

(4) The Youth Parole Bureau.

(d) "Foster home" has the meaning ascribed to it in NRS 424.014.

(e) "Youth Parole Bureau" has the meaning ascribed to it in NRS 62A.350.

Sec. 8. NRS 201.560 is hereby amended to read as follows:

201.560 1. Except as otherwise provided in subsection 3, a person commits the crime of luring a child if the person knowingly contacts or communicates with or attempts to contact or communicate with:

(a) A child who is less than ~~14~~ 17 years of age and who is at least 5 years younger than the person with the intent to persuade, lure or transport the child away from the child's home or from any location known to the child's parent or guardian or other person legally responsible for the child to a place other than where the child is located, for any purpose:



(1) Without the express consent of the parent or guardian or other person legally responsible for the child; and

(2) With the intent to avoid the consent of the parent or guardian or other person legally responsible for the child; or

(b) Another person whom he or she believes to be a child who is less than ~~16~~ 17 years of age and at least 5 years younger than he or she is, regardless of the actual age of that other person, with the intent to solicit, persuade or lure the person to engage in sexual conduct.

2. Except as otherwise provided in subsection 3, a person commits the crime of luring a person with mental illness if the person knowingly contacts or communicates with a person with mental illness with the intent to persuade, lure or transport the person with mental illness away from his or her home or from any location known to any person legally responsible for the person with mental illness to a place other than where the person with mental illness is located:

(a) For any purpose that a reasonable person under the circumstances would know would endanger the health, safety or welfare of the person with mental illness;

(b) Without the express consent of the person legally responsible for the person with mental illness; and

(c) With the intent to avoid the consent of the person legally responsible for the person with mental illness.

3. The provisions of this section do not apply if the contact or communication is made or attempted with the intent to prevent imminent bodily, emotional or psychological harm to the child, person believed to be a child or person with mental illness.

4. A person who violates or attempts to violate the provisions of this section through the use of a computer, system or network:

(a) With the intent to engage in sexual conduct with the child, person believed to be a child or person with mental illness or to cause the child, person believed to be a child or person with mental illness to engage in sexual conduct, 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 10 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child, person believed to be a child or person with mental illness with material that is harmful to minors or requesting the child, person believed to be a child or person with mental illness to provide the person with material that is harmful to minors, is guilty of a category C felony and shall be punished as provided in NRS 193.130; or



(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

5. A person who violates or attempts to violate the provisions of this section in a manner other than through the use of a computer, system or network:

(a) With the intent to engage in sexual conduct with the child, person believed to be a child or person with mental illness or to cause the child, person believed to be a child or person with mental illness to engage in sexual conduct, 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 2 years and a maximum term of not more than 15 years and may be further punished by a fine of not more than \$10,000;

(b) By providing the child, person believed to be a child or person with mental illness with material that is harmful to minors or requesting the child, person believed to be a child or person with mental illness to provide the person with material that is harmful to minors, 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 \$10,000; or

(c) If paragraph (a) or (b) does not apply, is guilty of a gross misdemeanor.

6. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Harmful to minors" has the meaning ascribed to it in NRS 201.257.

(c) "Material" means anything that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

(d) "Network" has the meaning ascribed to it in NRS 205.4745.

(e) "Person with mental illness" means a person who has any mental dysfunction leading to impaired ability to maintain himself or herself and to function effectively in his or her life situation without external support.

(f) "Sexual conduct" has the meaning ascribed to it in NRS 201.520.

(g) "System" has the meaning ascribed to it in NRS 205.476.

Sec. 9. NRS 41.1396 is hereby amended to read as follows:

41.1396 1. Any person who, while under the age of ~~16~~ 17 years, appeared in any film, photograph or other visual presentation engaging in sexual conduct and who suffered personal or psychological injury as a result may bring an action against any person who, while over the age of 18 years, knowingly and willfully:



- 1 (a) Promoted the film, photograph or other visual presentation;
2 (b) Possessed the film, photograph or other visual presentation;
3 or

4 (c) Used the Internet to control the film, photograph or other
5 visual presentation, with the specific intent to view the film,
6 photograph or other visual presentation.

7 2. A plaintiff who prevails in an action brought pursuant to this
8 section may recover the plaintiff's actual damages, which shall be
9 deemed to be at least \$150,000, plus attorney's fees and costs.

10 3. A plaintiff may request to use a pseudonym instead of the
11 plaintiff's name in all court proceedings and records related to an
12 action brought pursuant to this section. Upon notification that a
13 plaintiff has requested to use a pseudonym, the court shall ensure
14 that the pseudonym is used in all court proceedings and records.

15 4. It is not a defense to a cause of action under this section that
16 a defendant did not know the plaintiff or did not engage in the
17 sexual conduct with the plaintiff.

18 5. As used in this section:

19 (a) "Promote" has the meaning ascribed to it in NRS 200.700.

20 (b) "Sexual conduct" means sexual intercourse, fellatio,
21 cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic
22 abuse, masturbation, or the penetration of any object manipulated or
23 inserted by a person into the genital or anal opening of the body of
24 another.

25 **Sec. 10.** NRS 171.196 is hereby amended to read as follows:

26 171.196 1. If an offense is not triable in the Justice Court, the
27 defendant must not be called upon to plead. If the defendant waives
28 preliminary examination, the magistrate shall immediately hold the
29 defendant to answer in the district court.

30 2. If the defendant does not waive examination, the magistrate
31 shall hear the evidence within 15 days, unless for good cause shown
32 the magistrate extends such time. Unless the defendant waives
33 counsel, reasonable time must be allowed for counsel to appear.

34 3. Except as otherwise provided in this subsection, if the
35 magistrate postpones the examination at the request of a party, the
36 magistrate may order that party to pay all or part of the costs and
37 fees expended to have a witness attend the examination. The
38 magistrate shall not require a party who requested the postponement
39 of the examination to pay for the costs and fees of a witness if:

40 (a) It was not reasonably necessary for the witness to attend the
41 examination; or

42 (b) The magistrate ordered the extension pursuant to
43 subsection 4.



4. If application is made for the appointment of counsel for an indigent defendant, the magistrate shall postpone the examination until:

(a) The application has been granted or denied; and

(b) If the application is granted, the attorney appointed or the public defender has had reasonable time to appear.

5. The defendant may cross-examine witnesses against him or her and may introduce evidence in his or her own behalf.

6. Hearsay evidence consisting of a statement made by the alleged victim of the offense is admissible at a preliminary examination conducted pursuant to this section only if the defendant is charged with one or more of the following offenses:

(a) A sexual offense committed against a child who is under the age of ~~16~~ 17 years if the offense is punishable as a felony. As used in this paragraph, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

(b) Abuse of a child pursuant to NRS 200.508 if the offense is committed against a child who is under the age of 16 years and the offense is punishable as a felony.

(c) An act which constitutes domestic violence pursuant to NRS 33.018, which is punishable as a felony and which resulted in substantial bodily harm to the alleged victim.

Sec. 11. NRS 172.135 is hereby amended to read as follows:

172.135 1. In the investigation of a charge, for the purpose of either presentment or indictment, the grand jury can receive no other evidence than such as is given by witnesses produced and sworn before them or furnished by legal documentary evidence or by the deposition of witnesses taken as provided in this title, except that the grand jury may receive any of the following:

(a) An affidavit or declaration from an expert witness or other person described in NRS 50.315 in lieu of personal testimony or a deposition.

(b) An affidavit of an owner, possessor or occupant of real or personal property or other person described in NRS 172.137 in lieu of personal testimony or a deposition.

2. Except as otherwise provided in this subsection, the grand jury can receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay or secondary evidence. The grand jury can receive hearsay evidence consisting of a statement made by the alleged victim of an offense if the defendant is alleged to have committed one or more of the following offenses:

(a) A sexual offense committed against a child who is under the age of ~~16~~ 17 years if the offense is punishable as a felony. As used in this paragraph, "sexual offense" has the meaning ascribed to it in NRS 179D.097.



1 (b) Abuse of a child pursuant to NRS 200.508 if the offense is
2 committed against a child who is under the age of 16 years and the
3 offense is punishable as a felony.

4 (c) An act which constitutes domestic violence pursuant to NRS
5 33.018, which is punishable as a felony and which resulted in
6 substantial bodily harm to the alleged victim.

7 3. A statement made by a witness at any time that is
8 inconsistent with the testimony of the witness before the grand jury
9 may be presented to the grand jury as evidence.

10 **Sec. 12.** The amendatory provisions of this act apply to
11 offenses committed on or after July 1, 2023.

12 **Sec. 13.** This act becomes effective on July 1, 2023.

