

Senate Bill No. 263—Senators Cannizzaro, Pazina,
Dondero Loop, Nguyen and Doñate

Joint Sponsors: Assemblymembers Dalia,
Hardy, Gray, Yeager and Marzola

CHAPTER.....

AN ACT relating to crimes; expanding certain prohibitions relating to pornography involving minors; revising the penalties for certain crimes relating to pornography involving minors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who knowingly prepares, advertises or distributes any item or material that depicts a minor engaging in or simulating, or assisting others to engage in or simulate, sexual conduct is guilty of a category B felony, punishable by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 15 years, or by a fine of not more than \$15,000 or both. (NRS 200.725) **Section 2** of this bill expands this prohibition to include computer-generated child pornography. **Section 2** also revises the applicable criminal penalties by: (1) providing that a person who is found guilty of a second or subsequent violation is guilty of a category A felony, punishable by imprisonment in the state prison for a minimum term of not less than 10 years and a maximum term of life with the possibility of parole; and (2) providing that a person who is found guilty of a violation of **section 2** may not be convicted of a violation of **section 3** of this bill for possessing the same material.

Existing law provides that a person who knowingly and willfully has in his or her possession any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in, simulating or assisting others to engage in or simulate, sexual conduct is guilty of: (1) a category B felony for the first offense; and (2) a category A felony for any subsequent offense. (NRS 200.730) **Section 3** expands this prohibition to include computer-generated child pornography.

Existing law requires a person convicted of a sexual offense to register as a sex offender and comply with certain other requirements. (NRS 179D.441, 179D.445, 179D.460) Existing law defines the term sexual offense for the purposes of these requirements to include any offense involving pornography and a minor. (NRS 179D.097) Because **sections 2 and 3** expand the applicability of offenses involving pornography and a minor, **sections 2 and 3** have the effect of requiring a person convicted of a violation of **section 2 or 3** to: (1) register as a sex offender under certain circumstances; and (2) comply with certain other requirements applicable to sex offenders. **Section 1** of this bill defines certain terms for the purposes of **sections 2 and 3**.

Section 4 of this bill makes a conforming change that is necessary to reflect the revision to the organization of existing law made by **section 3**.



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

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

Section 1. NRS 200.700 is hereby amended to read as follows:
200.700 As used in NRS 200.700 to 200.760, inclusive, unless
the context otherwise requires:

1. ***“Computer-generated child pornography” means:***

(a) Any visual depiction of:

***(1) An actual child that has been created, adapted or
modified to depict the child as the subject of a sexual portrayal
or engaging in, or simulating, or assisting others to engage in or
simulate, sexual conduct; or***

***(2) An actual person who is 18 years of age or older that
has been created, adapted or modified to depict the person as a
child and:***

(I) As the subject of a sexual portrayal; or

***(II) Engaging in, or simulating, or assisting others to
engage in or simulate, sexual conduct; or***

***(b) Any visual representation that appears to depict a child as
the subject of a sexual portrayal or engaging in, or simulating, or
assisting others to engage in or simulate, sexual conduct, if the
representation is:***

***(1) Created by the use of artificial intelligence or other
computer technology capable of processing and interpreting
specific data inputs to create a visual depiction; and***

(2) Indistinguishable from a minor.

2. ***“Indistinguishable” means virtually indistinguishable,
such that an ordinary person viewing the visual depiction would
conclude that the visual depiction is of an actual minor.***

3. ***“Performance” means any play, film, photograph, computer-
generated image, electronic representation, dance or other visual
presentation.***

~~12-1~~ 4. ***“Promote” means to produce, direct, procure,
manufacture, sell, give, lend, publish, distribute, exhibit, advertise or
possess for the purpose of distribution.***

~~13-1~~ 5. ***“Sexual conduct” means sexual intercourse, lewd
exhibition of the genitals, fellatio, cunnilingus, bestiality, anal
intercourse, excretion, sado-masochistic abuse, masturbation, or the
penetration of any part of a person’s body or of any object
manipulated or inserted by a person into the genital or anal opening
of the body of another.***



~~[4-]~~ 6. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 2. NRS 200.725 is hereby amended to read as follows:

200.725 1. A person ~~[who]~~ **shall not** knowingly ~~[prepares, advertises]~~ **prepare, advertise** or ~~[distributes any item]~~ **distribute any:**

(a) **Item** or material that depicts a minor engaging in, or simulating, or assisting others to engage in or simulate, sexual conduct ; **or**

(b) **Computer-generated child pornography.**

2. **A person who violates the provisions of subsection 1:**

(a) **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 15 years, or by a fine of not more than \$15,000, or by both fine and imprisonment.

(b) **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 10 years and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than \$15,000.**

3. **A person convicted of a violation of this section may not be convicted of a violation of NRS 200.730 for possessing the same visual presentation.**

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

200.730 1. A person ~~[who]~~ **shall not** knowingly and willfully ~~[has]~~ **have** in his or her possession for any purpose any ~~[film,]~~ :

(a) **Film**, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct ~~;~~

~~—1.;~~ **or**

(b) **Computer-generated child pornography.**

2. **A person who violates the provisions of subsection 1:**

(a) **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-]~~ (b) **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 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.

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.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or 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 10 consecutive years after the person's last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a licensed, clinical professional who has received training in the treatment of sexual offenders, if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 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.

5. As used in this section:

(a) "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.

(b) “Sexual offense” means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, *paragraph (b) of* subsection 2 of NRS 200.730, paragraph (a) of subsection 1 of NRS 200.975, 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.



