

ASSEMBLY BILL NO. 126—ASSEMBLYMAN GRADY (BY REQUEST)

PREFILED JANUARY 29, 2009

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Makes various changes to the provisions relating to certain sexual offenses. (BDR 14-69)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; revising provisions relating to the designation of an attendant during certain criminal proceedings; revising provisions relating to the registration of sex offenders and offenders convicted of a crime against a child and the community notification of sex offenders; revising the provisions providing for the confidentiality of records and reports that reveal identity in cases involving certain sexual offenses; revising the provisions relating to the reporting of certain sexual offenses; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 **Section 1** of this bill expands the list of cases for which an attendant may be
- 2 designated to provide support for a witness during testimony to include cases
- 3 involving sexual conduct between certain employees or volunteers at a school,
- 4 college or university and a pupil or student. (NRS 178.571)
- 5 Under existing law, persons convicted of certain sexual offenses are required to
- 6 register with the appropriate law enforcement agency. (Chapter 179D of NRS)
- 7 **Section 2** of this bill revises the definition of “sexual offense” to include cases
- 8 involving sexual conduct between certain employees or volunteers at a school,
- 9 college or university and a pupil or student. (NRS 179D.097)
- 10 **Sections 4-9** of this bill expand the prohibition on the public disclosure of the
- 11 identity of a victim of a sexual assault to include a victim of statutory sexual
- 12 seduction or sexual conduct involving a pupil or student. (NRS 200.364-200.3774)
- 13 Existing law requires a person who knows or has reasonable cause to believe
- 14 that another person has committed a violent or sexual offense against a child who is
- 15 12 years of age or younger to report the crime to a law enforcement agency. (NRS
- 16 202.870-202.894) **Section 10** of this bill revises the definition of “violent or sexual



17 offense” to include cases involving sexual conduct between certain employees or
18 volunteers at a school, college or university and a pupil or student. (NRS 202.876)
19 Finally, existing law contains various provisions relating to the protection of
20 children from certain types of abuse and neglect, including sexual abuse. (Chapter
21 432 of NRS) **Section 11** of this bill revises the definition of the term “sexual abuse”
22 to include cases involving sexual conduct between certain employees or volunteers
23 at a school, college or university and a pupil or student. (NRS 432B.100)

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

1 **Section 1.** NRS 178.571 is hereby amended to read as follows:
2 178.571 1. Except as otherwise provided in subsection 2, in a
3 case involving any act of domestic violence pursuant to NRS
4 33.018, a violation of NRS 200.366, 200.368 or 200.373, a battery
5 with intent to commit a sexual assault pursuant to NRS 200.400, a
6 violation of any provision of NRS 200.5091 to ~~{200.5099,}~~
7 **200.50995**, inclusive, a violation of NRS 201.180, 201.210, 201.220
8 , ~~{or}~~ **201.230 , 201.540 or 201.550** or an attempt or a conspiracy to
9 commit any of these offenses, a witness may designate an attendant
10 who must be allowed to attend the preliminary hearing and the trial
11 during the witness’s testimony to provide support.
12 2. In a case involving an offense in which a minor is a witness,
13 the witness who is a minor may designate an attendant who must be
14 allowed to attend the preliminary hearing and the trial during the
15 witness’s testimony to provide support.
16 3. The attendant may be designated by a party as a witness and,
17 except as otherwise provided in this section, must not be excluded
18 from the proceedings. If a party designates the attendant as a
19 witness, the attendant must be examined and cross-examined before
20 any other witness testifies.
21 4. Except as otherwise provided in this subsection and
22 subsection 5, the attendant must not be a reporter or editorial
23 employee of any newspaper, periodical or press association or an
24 employee of any radio or television station. The provisions of this
25 subsection do not apply to an attendant to a witness in a case
26 involving a violation of any provision of NRS 200.5091 to
27 200.50995, inclusive.
28 5. The parent, child, brother or sister of the witness may serve
29 as the attendant of the witness whether or not the attendant is a
30 reporter or an editorial employee of any newspaper, periodical or
31 press association or an employee of any radio or television station,
32 but the attendant shall not make notes during the hearing or trial.



1 6. The court:

2 (a) Shall, if the witness requests, allow the attendant to sit next
3 to the witness while the witness is testifying; or

4 (b) May, if the witness requests that the attendant be in another
5 location in the courtroom while the witness is testifying, allow the
6 attendant to be in that location while the witness is testifying.

7 7. Except as otherwise provided in this subsection, the court
8 shall allow the attendant to have physical contact with the witness
9 while the witness is testifying, if the court determines that such
10 contact is reasonably appropriate or necessary to provide support to
11 the witness. If the attendant attempts to influence or affect in any
12 manner the testimony of the witness during the giving of testimony
13 or at any other time, the court shall exclude that attendant and allow
14 the witness to designate another attendant.

15 8. A party may move to exclude a particular attendant for good
16 cause, and the court shall hear the motion out of the presence of the
17 jury, if any. If the court grants the motion, the witness may
18 designate another attendant.

19 **Sec. 2.** NRS 179D.097 is hereby amended to read as follows:

20 179D.097 1. "Sexual offense" means any of the following
21 offenses:

22 (a) Murder of the first degree committed in the perpetration or
23 attempted perpetration of sexual assault or of sexual abuse or sexual
24 molestation of a child less than 14 years of age pursuant to
25 paragraph (b) of subsection 1 of NRS 200.030.

26 (b) Sexual assault pursuant to NRS 200.366.

27 (c) Statutory sexual seduction pursuant to NRS 200.368.

28 (d) Battery with intent to commit sexual assault pursuant to
29 subsection 4 of NRS 200.400.

30 (e) An offense involving the administration of a drug to another
31 person with the intent to enable or assist the commission of a felony
32 pursuant to NRS 200.405, if the felony is an offense listed in this
33 section.

34 (f) An offense involving the administration of a controlled
35 substance to another person with the intent to enable or assist the
36 commission of a crime of violence pursuant to NRS 200.408, if the
37 crime of violence is an offense listed in this section.

38 (g) Abuse of a child pursuant to NRS 200.508, if the abuse
39 involved sexual abuse or sexual exploitation.

40 (h) An offense involving pornography and a minor pursuant to
41 NRS 200.710 to 200.730, inclusive.

42 (i) Incest pursuant to NRS 201.180.

43 (j) Solicitation of a minor to engage in acts constituting the
44 infamous crime against nature pursuant to NRS 201.195.

45 (k) Open or gross lewdness pursuant to NRS 201.210.



- 1 (l) Indecent or obscene exposure pursuant to NRS 201.220.
2 (m) Lewdness with a child pursuant to NRS 201.230.
3 (n) Sexual penetration of a dead human body pursuant to
4 NRS 201.450.
5 (o) *Sexual conduct between certain employees of a school or*
6 *volunteers at a school and a pupil pursuant to NRS 201.540.*
7 (p) *Sexual conduct between certain employees of a college or*
8 *university and a student pursuant to NRS 201.550.*
9 (q) Luring a child or a person with mental illness pursuant to
10 NRS 201.560, if punished as a felony.
11 ~~[(p)]~~ (r) Any other offense that has an element involving a
12 sexual act or sexual conduct with another. ~~[(r)]~~
13 ~~[(q)]~~ (s) An attempt or conspiracy to commit an offense listed in
14 paragraphs (a) to ~~[(p)]~~ (r), inclusive.
15 ~~[(s)]~~ (t) An offense that is determined to be sexually motivated
16 pursuant to NRS 175.547 or 207.193.
17 ~~[(t)]~~ (u) An offense committed in another jurisdiction that, if
18 committed in this State, would be an offense listed in this section.
19 This subsection includes, without limitation, an offense prosecuted
20 in:
21 (1) A tribal court.
22 (2) A court of the United States or the Armed Forces of the
23 United States.
24 ~~[(u)]~~ (v) An offense of a sexual nature committed in another
25 jurisdiction, whether or not the offense would be an offense listed in
26 this section, if the person who committed the offense resides or has
27 resided or is or has been a student or worker in any jurisdiction in
28 which the person is or has been required by the laws of that
29 jurisdiction to register as a sex offender because of the offense. This
30 subsection includes, without limitation, an offense prosecuted in:
31 (1) A tribal court.
32 (2) A court of the United States or the Armed Forces of the
33 United States.
34 (3) A court having jurisdiction over juveniles.
35 2. ~~[(v)]~~ *Except for the offenses described in paragraphs (o)*
36 *and (p) of subsection 1, the* term does not include an offense
37 involving consensual sexual conduct if the victim was:
38 (a) An adult, unless the adult was under the custodial authority
39 of the offender at the time of the offense; or
40 (b) At least 13 years of age and the offender was not more than
41 4 years older than the victim at the time of the commission of the
42 offense.
43 **Sec. 3.** NRS 179D.495 is hereby amended to read as follows:
44 179D.495 If a person who is required to register pursuant to
45 NRS 179D.010 to 179D.550, inclusive, has been convicted of an



1 offense described in paragraph ~~(p)~~ (r) of subsection 1 of NRS
2 179D.097, paragraph (e) of subsection 1 or subsection 3 of NRS
3 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central
4 Repository shall determine whether the person is required to register
5 as a Tier I offender, Tier II offender or Tier III offender.

6 **Sec. 4.** NRS 200.364 is hereby amended to read as follows:

7 200.364 As used in NRS 200.364 to 200.3774, inclusive,
8 unless the context otherwise requires:

9 1. "Perpetrator" means a person who commits a sexual
10 ~~{assault.}~~ offense.

11 2. *"Sexual offense" means any of the following offenses:*

12 (a) *Sexual assault pursuant to NRS 200.366.*

13 (b) *Statutory sexual seduction pursuant to NRS 200.368.*

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

16 (d) *Sexual conduct between certain employees of a college or*
17 *university and a student pursuant to NRS 201.550.*

18 3. "Sexual penetration" means cunnilingus, fellatio, or any
19 intrusion, however slight, of any part of a person's body or any
20 object manipulated or inserted by a person into the genital or anal
21 openings of the body of another, including sexual intercourse in its
22 ordinary meaning.

23 ~~{3.}~~ 4. "Statutory sexual seduction" means:

24 (a) Ordinary sexual intercourse, anal intercourse, cunnilingus or
25 fellatio committed by a person 18 years of age or older with a
26 person under the age of 16 years; or

27 (b) Any other sexual penetration committed by a person 18
28 years of age or older with a person under the age of 16 years with
29 the intent of arousing, appealing to, or gratifying the lust or passions
30 or sexual desires of either of the persons.

31 ~~{4.}~~ 5. "Victim" means a person who is ~~{subjected to a sexual~~
32 ~~assault.}~~ *a victim of a sexual offense.*

33 **Sec. 5.** NRS 200.377 is hereby amended to read as follows:

34 200.377 The Legislature finds and declares that:

35 1. This State has a compelling interest in assuring that the
36 victim of a sexual ~~{assault.}~~ offense:

37 (a) Reports the ~~{assault.}~~ *sexual offense* to the appropriate
38 authorities;

39 (b) Cooperates in the investigation and prosecution of the
40 ~~{assault.}~~ *sexual offense;* and

41 (c) Testifies at the criminal trial of the person charged with
42 committing the ~~{assault.}~~ *sexual offense.*

43 2. The fear of public identification and invasion of privacy are
44 fundamental concerns for the victims of sexual ~~{assault.}~~ offenses. If
45 these concerns are not addressed and the victims are left



1 unprotected, the victims may refrain from reporting and prosecuting
2 sexual ~~assaults~~ offenses.

3 3. A victim of a sexual ~~assault~~ offense may be harassed,
4 intimidated and psychologically harmed by a public report that
5 identifies the victim. A sexual ~~assault~~ offense is, in many ways, a
6 unique, distinctive and intrusive personal trauma. The consequences
7 of identification are often additional psychological trauma and the
8 public disclosure of private personal experiences.

9 4. Recent public criminal trials have focused attention on these
10 issues and have dramatized the need for basic protections for the
11 victims of sexual ~~assault~~ offenses.

12 5. The public has no overriding need to know the individual
13 identity of the victim of a sexual ~~assault~~ offense.

14 6. The purpose of NRS 200.3771 to 200.3774, inclusive, is to
15 protect the victims of sexual ~~assault~~ offenses from harassment,
16 intimidation, psychological trauma and the unwarranted invasion of
17 their privacy by prohibiting the disclosure of their identities to the
18 public.

19 **Sec. 6.** NRS 200.3771 is hereby amended to read as follows:

20 200.3771 1. Except as otherwise provided in this section, any
21 information which is contained in:

22 (a) Court records, including testimony from witnesses;

23 (b) Intelligence or investigative data, reports of crime or
24 incidents of criminal activity or other information;

25 (c) Records of criminal history, as that term is defined in NRS
26 179A.070; and

27 (d) Records in the Central Repository for Nevada Records of
28 Criminal History,

29 ➔ that reveals the identity of a victim of a sexual ~~assault~~ offense is
30 confidential, including , but not limited to , the victim's photograph,
31 likeness, name, address or telephone number.

32 2. A defendant charged with a sexual ~~assault~~ offense and his
33 attorney are entitled to all identifying information concerning the
34 victim in order to prepare the defense of the defendant. The
35 defendant and his attorney shall not disclose this information except,
36 as necessary, to those persons directly involved in the preparation of
37 the defense.

38 3. A court of competent jurisdiction may authorize the release
39 of the identifying information, upon application, if the court
40 determines that:

41 (a) The person making the application has demonstrated to the
42 satisfaction of the court that good cause exists for the disclosure;

43 (b) The disclosure will not place the victim at risk of personal
44 harm; and



1 (c) Reasonable notice of the application and an opportunity to be
2 heard have been given to the victim.

3 4. Nothing in this section prohibits:

4 (a) Any publication or broadcast by the media concerning a
5 sexual ~~[assault.] offense.~~

6 (b) The disclosure of identifying information to any nonprofit
7 organization or public agency whose purpose is to provide
8 counseling, services for the management of crises or other
9 assistance to the victims of crimes if:

10 (1) The organization or agency needs identifying information
11 of victims to offer such services; and

12 (2) The court or a law enforcement agency approves the
13 organization or agency for the receipt of the identifying information.

14 5. The willful violation of any provision of this section or the
15 willful neglect or refusal to obey any court order made pursuant
16 thereto is punishable as criminal contempt.

17 **Sec. 7.** NRS 200.3772 is hereby amended to read as follows:

18 200.3772 1. A victim of a sexual ~~[assault]~~ *offense* may
19 choose a pseudonym to be used instead of the victim's name on all
20 files, records and documents pertaining to the sexual ~~[assault.]~~
21 *offense*, including, without limitation, criminal intelligence and
22 investigative reports, court records and media releases.

23 2. A victim who chooses to use a pseudonym shall file a form
24 to choose a pseudonym with the law enforcement agency
25 investigating the *sexual* offense. The form must be provided by the
26 law enforcement agency.

27 3. If the victim files a form to use a pseudonym, as soon as
28 practicable the law enforcement agency shall make a good faith
29 effort to:

30 (a) Substitute the pseudonym for the name of the victim on all
31 reports, files and records in the agency's possession; and

32 (b) Notify the prosecuting attorney of the pseudonym.

33 ➔ The law enforcement agency shall maintain the form in a manner
34 that protects the confidentiality of the information contained therein.

35 4. Upon notification that a victim has elected to be designated
36 by a pseudonym, the court shall ensure that the victim is designated
37 by the pseudonym in all legal proceedings concerning the sexual
38 ~~[assault.] offense.~~

39 5. The information contained on the form to choose a
40 pseudonym concerning the actual identity of the victim is
41 confidential and must not be disclosed to any person other than the
42 defendant or his attorney unless a court of competent jurisdiction
43 orders the disclosure of the information. The disclosure of
44 information to a defendant or his attorney is subject to the
45 conditions and restrictions specified in subsection 2 of



1 NRS 200.3771. A person who violates this subsection is guilty of a
2 misdemeanor.

3 6. A court of competent jurisdiction may order the disclosure
4 of the information contained on the form only if it finds that the
5 information is essential in the trial of the defendant accused of the
6 sexual ~~[assault]~~ *offense* or the identity of the victim is at issue.

7 7. A law enforcement agency that complies with the
8 requirements of this section is immune from civil liability for
9 unknowingly or unintentionally:

10 (a) Disclosing any information contained on the form filed by a
11 victim ~~[of sexual assault]~~ pursuant to this section that reveals the
12 identity of the victim; or

13 (b) Failing to substitute the pseudonym of the victim for the
14 name of the victim on all reports, files and records in the agency's
15 possession.

16 **Sec. 8.** NRS 200.3773 is hereby amended to read as follows:

17 200.3773 1. A public officer or employee who has access to
18 any records, files or other documents which include the photograph,
19 likeness, name, address, telephone number or other fact or
20 information that reveals the identity of a victim of a sexual ~~[assault]~~
21 *offense* shall not intentionally or knowingly disclose the identifying
22 information to any person other than:

23 (a) The defendant or his attorney;

24 (b) A person who is directly involved in the investigation,
25 prosecution or defense of the case;

26 (c) A person specifically named in a court order issued pursuant
27 to NRS 200.3771; or

28 (d) A nonprofit organization or public agency approved to
29 receive the information pursuant to NRS 200.3771.

30 2. A person who violates the provisions of subsection 1 is
31 guilty of a misdemeanor.

32 **Sec. 9.** NRS 200.3774 is hereby amended to read as follows:

33 200.3774 The provisions of NRS 200.3771, 200.3772 and
34 200.3773 do not apply if the victim of the sexual ~~[assault]~~ *offense*
35 voluntarily waives, in writing, the confidentiality of the information
36 concerning the victim's identity.

37 **Sec. 10.** NRS 202.876 is hereby amended to read as follows:

38 202.876 "Violent or sexual offense" means any act that, if
39 prosecuted in this State, would constitute any of the following
40 offenses:

41 1. Murder or voluntary manslaughter pursuant to NRS 200.010
42 to 200.260, inclusive.

43 2. Mayhem pursuant to NRS 200.280.

44 3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.

45 4. Sexual assault pursuant to NRS 200.366.



- 1 5. Robbery pursuant to NRS 200.380.
- 2 6. Administering poison or another noxious or destructive
3 substance or liquid with intent to cause death pursuant to
4 NRS 200.390.
- 5 7. Battery with intent to commit a crime pursuant to
6 NRS 200.400.
- 7 8. Administering a drug or controlled substance to another
8 person with the intent to enable or assist the commission of a felony
9 or crime of violence pursuant to NRS 200.405 or 200.408.
- 10 9. False imprisonment pursuant to NRS 200.460, if the false
11 imprisonment involves the use or threatened use of force or violence
12 against the victim or the use or threatened use of a firearm or a
13 deadly weapon.
- 14 10. Assault with a deadly weapon pursuant to NRS 200.471.
- 15 11. Battery which is committed with the use of a deadly
16 weapon or which results in substantial bodily harm pursuant to
17 NRS 200.481.
- 18 12. An offense involving pornography and a minor pursuant to
19 NRS 200.710 or 200.720.
- 20 13. Solicitation of a minor to engage in acts constituting the
21 infamous crime against nature pursuant to NRS 201.195.
- 22 14. Intentional transmission of the human immunodeficiency
23 virus pursuant to NRS 201.205.
- 24 15. Open or gross lewdness pursuant to NRS 201.210.
- 25 16. Lewdness with a child pursuant to NRS 201.230.
- 26 17. An offense involving pandering or prostitution in violation
27 of NRS 201.300, 201.320 or 201.340.
- 28 18. *Sexual conduct between certain employees of a school or*
29 *volunteers at a school and a pupil pursuant to NRS 201.540.*
- 30 19. *Sexual conduct between certain employees of a college or*
31 *university and a student pursuant to NRS 201.550.*
- 32 20. Coercion pursuant to NRS 207.190, if the coercion
33 involves the use or threatened use of force or violence against the
34 victim or the use or threatened use of a firearm or a deadly weapon.
- 35 ~~19.~~ 21. An attempt, conspiracy or solicitation to commit an
36 offense listed in subsections 1 to ~~18.~~ 20, inclusive.
- 37 **Sec. 11.** NRS 432B.100 is hereby amended to read as follows:
38 432B.100 “Sexual abuse” includes acts upon a child
39 constituting:
 - 40 1. Incest ~~under~~ *pursuant to* NRS 201.180;
 - 41 2. Lewdness with a child ~~under~~ *pursuant to* NRS 201.230;
 - 42 3. Sado-masochistic abuse ~~under~~ *pursuant to* NRS 201.262;
 - 43 4. Sexual assault ~~under~~ *pursuant to* NRS 200.366;
 - 44 5. Statutory sexual seduction ~~under~~ *pursuant to*
45 NRS 200.368;



- 1 6. Open or gross lewdness ~~[under]~~ *pursuant to* NRS 201.210;
2 ~~{and}~~
3 7. *Sexual conduct between certain employees of a school or*
4 *volunteers at a school and a pupil pursuant to NRS 201.540;*
5 8. *Sexual conduct between certain employees of a college or*
6 *university and a student pursuant to NRS 201.550; and*
7 9. Mutilation of the genitalia of a female child, aiding, abetting,
8 encouraging or participating in the mutilation of the genitalia of a
9 female child, or removal of a female child from this State for the
10 purpose of mutilating the genitalia of the child ~~[under]~~ *pursuant to*
11 *NRS 200.5083.*
12 **Sec. 12.** The amendatory provisions of this act apply to
13 offenses committed before, on or after October 1, 2009.

