

ASSEMBLY BILL NO. 309—ASSEMBLYMEN KOIVISTO, MCCLAIN, MANENDO, LESLIE, BOBZIEN; AIZLEY, ANDERSON, ARBERRY, ATKINSON, CLABORN, CONKLIN, DONDERO LOOP, HAMBRICK, HOGAN, HORNE, KIHUEN, KIRKPATRICK, MASTROLUCA, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, SEGERBLOM, SMITH AND SPIEGEL

MARCH 12, 2009

JOINT SPONSORS: SENATORS CARLTON, BREEDEN, PARKS, COPENING, WIENER; COFFIN, MATHEWS, SCHNEIDER AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the crime of stalking. (BDR 15-994)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

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 crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits stalking and authorizes the issuance of a temporary or
2 extended order restricting certain conduct related to the crime of stalking,
3 aggravated stalking or harassment. (NRS 200.575, 200.591) **Section 1** of this bill
4 includes within the definition of the crime of stalking a course of conduct which
5 would cause a reasonable person to feel fearful for the safety of a third person and
6 which actually causes a victim to feel such fear. **Section 1** also increases the
7 penalty for a first offense for the crime of stalking from a misdemeanor to a gross
8 misdemeanor and makes a subsequent offense a category D felony. Additionally,



* A B 3 0 9 R 1 *

9 **section 1** adds text messaging to the existing crime of stalking with the use of a
10 communication device, which is punishable as a category C felony.

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

1 **Section 1.** NRS 200.575 is hereby amended to read as follows:
2 200.575 1. A person who, without lawful authority, willfully
3 or maliciously engages in a course of conduct that would cause a
4 reasonable person to feel terrorized, frightened, intimidated, ~~or~~
5 harassed ~~[]~~ *or fearful for the safety of a third person*, and that
6 actually causes the victim to feel terrorized, frightened, intimidated,
7 ~~or~~ harassed ~~[]~~ *or fearful for the safety of a third person*, commits
8 the crime of stalking. Except where the provisions of subsection 2 or
9 3 are applicable, a person who commits the crime of stalking:

- 10 (a) For the first offense, is guilty of a *gross* misdemeanor.
11 (b) For any subsequent offense, is guilty of a ~~gross~~
12 ~~misdemeanor.~~ *category D felony and shall be punished as*
13 *provided in NRS 193.130.*

14 2. A person who commits the crime of stalking and in
15 conjunction therewith threatens the person with the intent to cause
16 him to be placed in reasonable fear of death or substantial bodily
17 harm commits the crime of aggravated stalking. A person who
18 commits the crime of aggravated stalking shall be punished for a
19 category B felony by imprisonment in the state prison for a
20 minimum term of not less than 2 years and a maximum term of not
21 more than 15 years, and may be further punished by a fine of not
22 more than \$5,000.

23 3. A person who commits the crime of stalking with the use of
24 an Internet or network site, ~~or~~ electronic mail, *text messaging* or
25 any other similar means of communication to publish, display or
26 distribute information in a manner that substantially increases the
27 risk of harm or violence to the victim shall be punished for a
28 category C felony as provided in NRS 193.130.

29 4. Except as otherwise provided in subsection 2 of NRS
30 200.571, a criminal penalty provided for in this section may be
31 imposed in addition to any penalty that may be imposed for any
32 other criminal offense arising from the same conduct or for any
33 contempt of court arising from the same conduct.

34 5. The penalties provided in this section do not preclude the
35 victim from seeking any other legal remedy available.

36 6. As used in this section:

- 37 (a) "Course of conduct" means a pattern of conduct which
38 consists of a series of acts over time that evidences a continuity of
39 purpose directed at a specific person.



1 (b) "Internet or network site" has the meaning ascribed to it in
2 NRS 205.4744.

3 (c) "Network" has the meaning ascribed to it in
4 NRS 205.4745.

5 (d) "Provider of Internet service" has the meaning ascribed to it
6 in NRS 205.4758.

7 (e) *"Text messaging" means a communication in the form of*
8 *electronic text or one or more electronic images sent from a*
9 *telephone or computer to another person's telephone or computer*
10 *by addressing the communication to the recipient's telephone*
11 *number.*

12 (f) "Without lawful authority" includes acts which are initiated
13 or continued without the victim's consent. The term does not
14 include acts which are otherwise protected or authorized by
15 constitutional or statutory law, regulation or order of a court of
16 competent jurisdiction, including, but not limited to:

17 (1) Picketing which occurs during a strike, work stoppage or
18 any other labor dispute.

19 (2) The activities of a reporter, photographer, cameraman or
20 other person while gathering information for communication to the
21 public if that person is employed or engaged by or has contracted
22 with a newspaper, periodical, press association or radio or television
23 station and is acting solely within that professional capacity.

24 (3) The activities of a person that are carried out in the
25 normal course of his lawful employment.

26 (4) Any activities carried out in the exercise of the
27 constitutionally protected rights of freedom of speech and assembly.

28 **Sec. 2.** (Deleted by amendment.)

29 **Sec. 3.** NRS 176A.413 is hereby amended to read as follows:

30 176A.413 1. Except as otherwise provided in subsection 2, if
31 a defendant is convicted of stalking with the use of an Internet or
32 network site , ~~for~~ electronic mail , *text messaging* or any other
33 similar means of communication pursuant to subsection 3 of NRS
34 200.575, an offense involving pornography and a minor pursuant to
35 NRS 200.710 to 200.730, inclusive, or luring a child or a person
36 with mental illness through the use of a computer, system or
37 network pursuant to paragraph (a) or (b) of subsection 4 of NRS
38 201.560 and the court grants probation or suspends the sentence, the
39 court shall, in addition to any other condition ordered pursuant to
40 NRS 176A.400, order as a condition of probation or suspension that
41 the defendant not own or use a computer, including, without
42 limitation, use electronic mail, a chat room or the Internet.

43 2. The court is not required to impose a condition of probation
44 or suspension of sentence set forth in subsection 1 if the court finds
45 that:



1 (a) The use of a computer by the defendant will assist a law
2 enforcement agency or officer in a criminal investigation;

3 (b) The defendant will use the computer to provide
4 technological training concerning technology of which the
5 defendant has a unique knowledge; or

6 (c) The use of the computer by the defendant will assist
7 companies that require the use of the specific technological
8 knowledge of the defendant that is unique and is otherwise
9 unavailable to the company.

10 3. Except as otherwise provided in subsection 1, if a defendant
11 is convicted of an offense that involved the use of a computer,
12 system or network and the court grants probation or suspends the
13 sentence, the court may, in addition to any other condition ordered
14 pursuant to NRS 176A.400, order as a condition of probation or
15 suspension that the defendant not own or use a computer, including,
16 without limitation, use electronic mail, a chat room or the Internet.

17 4. As used in this section:

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

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

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

21 (d) *"Text messaging" has the meaning ascribed to it in*
22 *NRS 200.575.*

23 **Sec. 4.** NRS 213.1258 is hereby amended to read as follows:

24 213.1258 1. Except as otherwise provided in subsection 2, if
25 the Board releases on parole a prisoner convicted of stalking with
26 the use of an Internet or network site , ~~for~~ electronic mail , *text*
27 *messaging* or any other similar means of communication pursuant
28 to subsection 3 of NRS 200.575, an offense involving pornography
29 and a minor pursuant to NRS 200.710 to 200.730, inclusive, or
30 luring a child or a person with mental illness through the use of a
31 computer, system or network pursuant to paragraph (a) or (b) of
32 subsection 4 of NRS 201.560, the Board shall, in addition to any
33 other condition of parole, require as a condition of parole that the
34 parolee not own or use a computer, including, without limitation,
35 use electronic mail, a chat room or the Internet.

36 2. The Board is not required to impose a condition of parole set
37 forth in subsection 1 if the Board finds that:

38 (a) The use of a computer by the parolee will assist a law
39 enforcement agency or officer in a criminal investigation;

40 (b) The parolee will use the computer to provide technological
41 training concerning technology of which the defendant has a unique
42 knowledge; or

43 (c) The use of the computer by the parolee will assist companies
44 that require the use of the specific technological knowledge of the
45 parolee that is unique and is otherwise unavailable to the company.



- 1 3. Except as otherwise provided in subsection 1, if the Board
2 releases on parole a prisoner convicted of an offense that involved
3 the use of a computer, system or network, the Board may, in
4 addition to any other condition of parole, require as a condition of
5 parole that the parolee not own or use a computer, including,
6 without limitation, use electronic mail, a chat room or the Internet.
- 7 4. As used in this section:
- 8 (a) "Computer" has the meaning ascribed to it in NRS 205.4735.
9 (b) "Network" has the meaning ascribed to it in NRS 205.4745.
10 (c) "System" has the meaning ascribed to it in NRS 205.476.
11 (d) *"Text messaging" has the meaning ascribed to it in*
12 *NRS 200.575.*

Ⓢ



* A B 3 0 9 R 1 *