

ASSEMBLY BILL NO. 36—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED DECEMBER 5, 2008

Referred to Committee on Corrections, Parole, and Probation

SUMMARY—Revises provisions pertaining to lifetime supervision
of sex offenders. (BDR 16-317)

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

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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 sex offenders; revising provisions pertaining to
lifetime supervision of sex offenders; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill provides that for a sex offender who is placed under a program of
2 lifetime supervision: (1) lifetime supervision shall be deemed a form of parole for
3 the purposes of chapter 213 of NRS, with certain exceptions; and (2) a violation of
4 a condition of the program of lifetime supervision will be treated in the same
5 manner as a violation of a condition of parole by a parolee, rather than being
6 prosecuted in court as a separate crime, and based upon the seriousness of the
7 violation, the State Board of Parole Commissioners may impose a range of
8 sanctions for the violation. (NRS 213.1243)

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

1 **Section 1.** NRS 213.1243 is hereby amended to read as
2 follows:

3 213.1243 1. The Board shall establish by regulation a
4 program of lifetime supervision of sex offenders to commence after
5 any period of probation or any term of imprisonment and any period
6 of release on parole. The program must provide for the lifetime
7 supervision of sex offenders by parole and probation officers.



2. ~~[Lifetime]~~ *Unless the context of the specific statutory provision clearly requires a different construction, lifetime supervision shall be deemed a form of parole for f:*

~~—(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.]~~ *the purposes of this chapter, and the provisions of this chapter apply to the program of lifetime supervision, except the following provisions:*

(a) NRS 213.110.

(b) NRS 213.1518.

(c) Subsections 2 and 3 of NRS 213.15185.

(d) NRS 213.1519.

(e) NRS 213.154.

(f) NRS 213.155.

3. Except as otherwise provided in subsection 9, the Board 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 current address.

4. Except as otherwise provided in subsection 9, the Board 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 a 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 Board 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 location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

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

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 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.

(c) Abide by any other conditions set forth by the Division with regard to his 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, *if* a sex offender ~~[who]~~ commits a violation of a condition imposed on him 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.]~~ , *the Board shall proceed in the manner provided in this chapter for any other violation of a term or condition of parole, except that upon finding that the sex offender has violated a condition imposed on him*



1 pursuant to the program of lifetime supervision, the Board may,
2 based upon the seriousness of the violation, take any or all of the
3 following actions:

4 (a) Order that the sex offender be confined in an institution or
5 facility of the Department of Corrections approved by the Board
6 for a period not to exceed 3 years;

7 (b) Order that the sex offender be confined in the county jail
8 for a period not to exceed 1 year;

9 (c) Order that the sex offender be placed in residential
10 confinement in accordance with the provisions of NRS 213.152;

11 (d) Modify the conditions of the program of lifetime
12 supervision; or

13 (e) Impose any other sanction deemed appropriate by the
14 Board.

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

19 10. ~~If a court issues a warrant for arrest for a violation of this~~
20 ~~section, the court shall cause to be transmitted, in the manner~~
21 ~~prescribed by the Central Repository for Nevada Records of~~
22 ~~Criminal History, notice of the issuance of the warrant for arrest in a~~
23 ~~manner which ensures that such notice is received by the Central~~
24 ~~Repository within 3 business days.~~

25 ~~11. For the purposes of prosecution of a violation by a sex~~
26 ~~offender of a condition imposed upon him pursuant to the program~~
27 ~~of lifetime supervision, the violation shall be deemed to have~~
28 ~~occurred in, and may only be prosecuted in, the county in which the~~
29 ~~court that imposed the sentence of lifetime supervision pursuant to~~
30 ~~NRS 176.0931 is located, regardless of whether the acts or conduct~~
31 ~~constituting the violation took place, in whole or in part, within or~~
32 ~~outside that county or within or outside this State.] As used in this~~
33 ~~section, unless the context otherwise requires:~~

34 (a) "Facility" has the meaning ascribed to it in NRS 209.065.

35 (b) "Institution" has the meaning ascribed to it in
36 NRS 209.071.

37 Sec. 2. The amendatory provisions of this act apply to:

38 1. A person who is placed under a program of lifetime
39 supervision before, on or after October 1, 2009; and

40 2. A violation of a condition of a program of lifetime
41 supervision that is committed on or after October 1, 2009.

