

CHAPTER.....

AN ACT relating to crimes; requiring a provider of Internet service to provide access to certain information; authorizing certain persons to issue subpoenas to obtain such information; establishing a penalty for committing the crime of stalking with the use of the Internet or electronic mail; prohibiting the use or attempted use of a computer, network or system to lure children under certain circumstances and providing that such an offense constitutes a sexual offense for the purpose of certain statutes pertaining to sex offenders; making various changes concerning the sale of tobacco products or alcoholic beverages to minors through the use of the Internet; increasing the penalty for certain unlawful uses of encryption; making various changes concerning the crime of annoying or molesting a minor; requiring that certain conditions of probation and parole be imposed upon certain offenders; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A provider of Internet service who violates the provisions of 18 U.S.C. § 2703, as that section existed on the effective date of this act, is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.

2. In investigating criminal activity that involves or may involve the use of a computer, the attorney general, a district attorney, the sheriff of any county in this state, the head of any organized police department of any municipality in this state, the head of any department of this state engaged in the enforcement of any criminal law of this state and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service that is punishable as a felony, issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703, as that section existed on the effective date of this act, to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703, as that section existed on the effective date of this act.

3. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

4. As used in this section, “provider of Internet service” has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.

Sec. 2. NRS 200.571 is hereby amended to read as follows:

200.571 1. A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(1) To cause bodily injury in the future to the person threatened or to any other person;

(2) To cause physical damage to the property of another person;

(3) To subject the person threatened or any other person to physical confinement or restraint; or

(4) To do any act which is intended to substantially harm the person threatened or any other person with respect to his physical or mental health or safety; and

(b) The person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.

2. Except where the provisions of subsection 2 *or* 3 of NRS 200.575 are applicable, a person who is guilty of harassment:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second or any subsequent offense, is guilty of a gross misdemeanor.

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

Sec. 3. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated or harassed, and that actually causes the victim to feel terrorized, frightened, intimidated or harassed, commits the crime of stalking. Except where the provisions of subsection 2 *or* 3 are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a misdemeanor.

(b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who:

(a) Commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm;

(b) Commits the crime of stalking on his spouse while a proceeding for the dissolution of their marriage is pending for which he has actual or legal notice or within 6 months after entry of the final decree of dissolution; or

(c) Commits the crime of stalking on a person with whom he has a child in common while a proceeding for the custody of that child is pending for which he has actual or legal notice,
commits the crime of aggravated stalking.

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

4. A person who commits the crime of aggravated stalking shall be punished:

(a) If he commits the crime set forth in paragraph (a) of subsection 2, for a category B felony 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 \$5,000.

(b) If he commits the crime set forth in paragraph (b) or (c) of subsection 2:

(1) For the first offense, for a gross misdemeanor.

(2) For the second and any subsequent offense, for a category B felony 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 \$5,000.

~~14-1~~ 5. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

~~15-1~~ 6. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

~~16-1~~ 7. As used in this section:

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

(b) *"Internet or network site" means any identifiable site on the Internet or on a network. The term includes, without limitation:*

(1) A website or other similar site on the World Wide Web;

(2) A site that is identifiable through a Uniform Resource Location;

(3) A site on a network that is owned, operated, administered or controlled by a provider of Internet service;

(4) An electronic bulletin board;

(5) A list server;

(6) A newsgroup; or

(7) A chat room.

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

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

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

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

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

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

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

Sec. 4. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person shall not use a computer, system or network to knowingly contact or communicate with or attempt to contact or communicate with a child who is less than 16 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 his home or from any location known to his parent or guardian or other person legally responsible for the child to a place other than where the child is located, for any purpose:

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

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

2. 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.

3. A person who violates or attempts to violate the provisions of this section:

(a) With the intent to engage in sexual conduct with the child or to cause the child 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 with obscene material or requesting the child to provide the person with obscene material, 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.

4. As used in this section:

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

(b) "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.

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

(d) "Obscene" has the meaning ascribed to it in NRS 201.235.

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

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

Sec. 5. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description or products made from tobacco to a child under the age of 18 years through the use of the Internet.

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection 6 of NRS 202.2493.

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description or products made from tobacco through the use of the Internet shall adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made from tobacco from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring that the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that the packaging or wrapping of the items when they are shipped is clearly marked with the word "cigarettes" or the words "tobacco products," and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

Sec. 6. NRS 202.055 is hereby amended to read as follows:

202.055 1. Every person who knowingly:

(a) Sells, gives or otherwise furnishes an alcoholic beverage to any person under 21 years of age;

(b) Leaves or deposits any alcoholic beverage in any place with the intent that it will be procured by any person under 21 years of age; or

(c) Furnishes, gives, or causes to be given any money or thing of value to any person under 21 years of age with the knowledge that the money or thing of value is to be used by the person under 21 years of age to purchase or procure any alcoholic beverage,
is guilty of a misdemeanor.

2. Paragraph (a) of subsection 1 does not apply to a parent, guardian or physician of the person under 21 years of age.

3. Every person who sells, gives or otherwise furnishes alcoholic beverages through the use of the Internet shall adopt a policy to prevent a person under 21 years of age from obtaining an alcoholic beverage from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring that the person who delivers the alcoholic beverages obtains the signature of a person who is over the age of 21 years when delivering the beverages and that the packaging or wrapping of the alcoholic beverages when they are shipped is clearly marked with words that describe the alcoholic beverages. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

Sec. 7. NRS 202.2485 is hereby amended to read as follows:

202.2485 As used in NRS 202.2485 to 202.2497, inclusive ~~H~~, *and section 5 of this act:*

1. "Distribute" includes furnishing, giving away or providing products made from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale.

2. "Health authority" means the district health officer in a district, or his designee, or, if none, the state health officer, or his designee.

Sec. 8. NRS 202.249 is hereby amended to read as follows:

202.249 1. It is the public policy of the State of Nevada and the purpose of NRS 202.2491, 202.24915 and 202.2492 to place restrictions on the smoking of tobacco in public places to protect human health and safety.

2. The quality of air is declared to be affected with the public interest and NRS 202.2491, 202.24915 and 202.2492 are enacted in the exercise of the police power of this state to protect the health, peace, safety and general welfare of its people.

3. Health authorities, police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2491, 202.24915 and 202.2492. Police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2493 and 202.2494 ~~†~~ *and section 5 of this act.*

4. An agency, board, commission or political subdivision of this state, including any agency, board, commission or governing body of a local government, shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco or products made from tobacco than are provided by NRS 202.2491, 202.24915, 202.2492, 202.2493 and 202.2494 ~~†~~ *and section 5 of this act.*

Sec. 9. NRS 205.486 is hereby amended to read as follows:

205.486 1. A person shall not willfully use or attempt to use encryption, directly or indirectly, to:

- (a) Commit, facilitate, further or promote any criminal offense;
- (b) Aid, assist or encourage another person to commit any criminal offense;
- (c) Conceal the commission of any criminal offense;
- (d) Conceal or protect the identity of a person who has committed any criminal offense; or
- (e) Delay, hinder or obstruct the administration of the law.

2. A person who violates any provision of this section:

(a) Is guilty of a gross misdemeanor ~~†; and†~~ *, unless the encryption was used or attempted to be used to commit a crime for which a greater penalty is provided by specific statute. If the encryption was used or attempted to be used to commit a crime for which a greater penalty is provided by specific statute, the person shall be punished as prescribed by statute for that crime.*

(b) Commits a criminal offense that is separate and distinct from any other criminal offense and may be prosecuted and convicted pursuant to this section whether or not the person or any other person is or has been prosecuted or convicted for any other criminal offense arising out of the same facts as the violation of this section.

Sec. 10. NRS 207.260 is hereby amended to read as follows:

207.260 ~~†A†~~

1. *Unless a greater penalty is provided by specific statute, a person who annoys or molests or attempts to annoy or molest a minor, including, without limitation, soliciting a minor to engage in unlawful sexual conduct, is guilty of :*

(a) For the first offense, a misdemeanor.

(b) For the second and each subsequent offense, ~~he 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 the purposes of this section, "soliciting" includes, without limitation, contacting a person directly, through the use of a telephone, in writing, through the use of a computer or through an advertisement.*

3. *As used in this section:*

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

(b) *"Sexual conduct" has the meaning ascribed to it in NRS 200.700.*

Sec. 11. 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 district court in whose jurisdiction he resides for release from lifetime supervision. The court shall grant a petition for release from a special sentence of lifetime supervision if:

(a) 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 15 consecutive years after his last conviction or release from incarceration, whichever occurs later; and

(b) The person is not likely to pose a threat to the safety of others 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 he is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.350 to 179D.800, inclusive.

5. *As used in this section:*

(a) "Offense that poses a threat to the safety or well-being of others" has the meaning ascribed to it in NRS 179D.060.

(b) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450 ~~†~~ *or paragraph (a) or (b) of subsection 3 of section 4 of this act;*

(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.

Sec. 12. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

- (a) A psychiatrist licensed to practice medicine in this state and certified by the American Board of Psychiatry and Neurology;
 - (b) A psychologist licensed to practice in this state;
 - (c) A social worker holding a master's degree in social work and licensed in this state as a clinical social worker;
 - (d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this state; or
 - (e) A marriage and family therapist licensed in this state pursuant to chapter 641A of NRS.
2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.
3. "Sexual offense" means:
- (a) Sexual assault pursuant to NRS 200.366;
 - (b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;
 - (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;
 - (d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;
 - (e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
 - (f) Incest pursuant to NRS 201.180;
 - (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;
 - (h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;
 - (i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;
 - (j) Lewdness with a child pursuant to NRS 201.230;
 - (k) Sexual penetration of a dead human body pursuant to NRS 201.450;
 - (l) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony;*
 - (m) Annoyance or molestation of a minor pursuant to NRS 207.260, if punished as a felony;
 - ~~(n)~~ (n) An attempt to commit an offense listed in paragraphs (a) to ~~(l)~~ (m), inclusive, if punished as a felony; or
 - ~~(o)~~ (o) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 13. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site or electronic mail or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child using a computer, system or network pursuant to paragraph (a) or (b) of subsection 3 of section 4 of this act and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or

suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

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

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

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

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

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

4. As used in this section:

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

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

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

Sec. 14. NRS 176A.110 is hereby amended to read as follows:

176A.110 1. The court shall not grant probation to or suspend the sentence of a person convicted of an offense listed in subsection 3 unless a psychologist licensed to practice in this state or a psychiatrist licensed to practice medicine in this state certifies that the person is not a menace to the health, safety or morals of others.

2. This section does not create a right in any person to be certified or continue to be certified and no person may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to consider a person for certification pursuant to this section.

3. The provisions of this section apply to a person convicted of any of the following offenses:

(a) Attempted sexual assault of a person who is 16 years of age or older pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(d) Abuse or neglect of a child pursuant to NRS 200.508.

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

(f) Incest pursuant to NRS 201.180.

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

(h) Open or gross lewdness pursuant to NRS 201.210.

(i) Indecent or obscene exposure pursuant to NRS 201.220.

(j) Lewdness with a child pursuant to NRS 201.230.

(k) Sexual penetration of a dead human body pursuant to NRS 201.450.

(l) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony.*

(m) A violation of NRS 207.180.

~~(m)~~ (n) An attempt to commit an offense listed in paragraphs (b) to ~~(l)~~ (m), inclusive.

~~(n)~~ (o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

Sec. 15. NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the written request of a victim or witness, inform him:

(a) When the defendant is released from custody at any time before or during the trial;

(b) If the defendant is so released, the amount of bail required, if any; and

(c) Of the final disposition of the criminal case in which he was directly involved.

2. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 4;

(2) The form that the witness must use to request notification; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 3, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 4 or 5 and NRS 176.015, 176A.630, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.130;

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

3. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 2:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

4. Except as otherwise provided in subsection 5, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides his current address, notify him at that address when the offender is released from the prison.

5. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;

(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides his current address; and

(c) The victim, if he will be 18 years of age or older at the time of the release and has provided his current address, before the offender is released from prison.

6. The warden must not be held responsible for any injury proximately caused by his failure to give any notice required pursuant to this section if no address was provided to him or if the address provided is inaccurate or not current.

7. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

(3) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(5) Incest pursuant to NRS 201.180;

(6) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(7) Open or gross lewdness pursuant to NRS 201.210;

(8) Indecent or obscene exposure pursuant to NRS 201.220;

(9) Lewdness with a child pursuant to NRS 201.230;

(10) Sexual penetration of a dead human body pursuant to NRS 201.450;

(11) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony;*

(12) Annoyance or molestation of a minor pursuant to NRS 207.260;

~~(12)~~ (13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or

~~(13)~~ (14) An attempt to commit an offense listed in this paragraph.

Sec. 16. NRS 179.460 is hereby amended to read as follows:

179.460 1. The attorney general or the district attorney of any county may apply to a supreme court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire or oral communications, and the judge may, in accordance with NRS 179.470 to 179.515, inclusive, grant an order authorizing the interception of wire or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when the interception may provide evidence of the commission of murder, kidnapping, robbery, extortion, bribery, destruction of public property by

explosives, a sexual offense against a child or the commission of any offense which is made a felony by the provisions of chapter 453 or 454 of NRS.

2. A good faith reliance by a public utility on a court order shall constitute a complete defense to any civil or criminal action brought against the public utility on account of any interception made pursuant to the order.

3. As used in this section, "sexual offense against a child" includes any act upon a child constituting:

- (a) Incest pursuant to NRS 201.180;
- (b) Lewdness with a child pursuant to NRS 201.230;
- (c) Annoyance or molestation of a child pursuant to NRS 207.260;
- (d) Sado-masochistic abuse pursuant to NRS 201.262;
- (e) Sexual assault pursuant to NRS 200.366;
- (f) Statutory sexual seduction pursuant to NRS 200.368; ~~+~~;
- (g) Open or gross lewdness pursuant to NRS 201.210 ~~+~~; or
- (h) Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony.*

Sec. 17. NRS 179A.073 is hereby amended to read as follows:

179A.073 1. "Sexual offense" includes acts upon a child constituting:

- (a) Sexual assault under NRS 200.366;
- (b) Statutory sexual seduction under NRS 200.368;
- (c) Use of a minor in producing pornography under NRS 200.710;
- (d) Promotion of a sexual performance of a minor under NRS 200.720;
- (e) Possession of a visual presentation depicting the sexual conduct of a child under NRS 200.730;
- (f) Incest under NRS 201.180;
- (g) Solicitation of a minor to engage in the infamous crime against nature under NRS 201.195;
- (h) Lewdness with a child under NRS 201.230; ~~+~~;
- (i) Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony; or*
- (j) Annoyance or molestation of a minor under NRS 207.260.*

2. "Sexual offense" also includes acts committed outside the state that would constitute any of the offenses in subsection 1 if committed in the state, and the aiding, abetting, attempting or conspiring to engage in any of the offenses in subsection 1.

Sec. 18. NRS 179A.280 is hereby amended to read as follows:

179A.280 As used in *this section and* NRS 179A.270 ~~+, 179A.280+~~ and 179A.290:

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

- (a) Sexual assault pursuant to NRS 200.366;
- (b) Statutory sexual seduction pursuant to NRS 200.368;
- (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;
- (d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

- (e) Incest pursuant to NRS 201.180;
- (f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;
- (g) Open or gross lewdness pursuant to NRS 201.210;
- (h) Indecent or obscene exposure pursuant to NRS 201.220;
- (i) Lewdness with a child pursuant to NRS 201.230;
- (j) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (k) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony;*
- (l) Annoyance or molestation of a minor pursuant to NRS 207.260;
- ~~+(k)~~ ~~(m)~~ An attempt to commit an offense listed in paragraphs (a) to ~~+(k)~~, inclusive;
- ~~-(m)~~ ~~(l)~~, inclusive;
- (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or
- ~~+(n)~~ (o) An offense committed in another jurisdiction that, if committed in this state, would be an offense listed in this subsection.

Sec. 19. NRS 179D.035 is hereby amended to read as follows:

179D.035 “Convicted” includes, but is not limited to, an adjudication of delinquency or a finding of guilt by a court having jurisdiction over juveniles if the adjudication of delinquency or the finding of guilt is for the commission of any of the following offenses:

1. A crime against a child that is listed in subsection 6 of NRS 179D.210.
2. A sexual offense that is listed in subsection ~~+(n)~~ 20 of NRS 179D.410.
3. A sexual offense that is listed in paragraph (b) of subsection 3 of NRS 62.600.

Sec. 20. NRS 179D.400 is hereby amended to read as follows:

179D.400 1. “Sex offender” means a person who, after July 1, 1956, is or has been:

- (a) Convicted of a sexual offense listed in NRS 179D.410; or
 - (b) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subsection ~~+(n)~~ 20 of NRS 179D.410.
2. The term includes, but is not limited to:
- (a) A sexually violent predator.
 - (b) A nonresident sex offender who is a student or worker within this state.

Sec. 21. NRS 179D.410 is hereby amended to read as follows:

179D.410 “Sexual offense” means any of the following offenses:

1. Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.
2. Sexual assault pursuant to NRS 200.366.
3. Statutory sexual seduction pursuant to NRS 200.368.
4. Battery with intent to commit sexual assault pursuant to NRS 200.400.

5. An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.

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

7. Abuse of a child pursuant NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

8. An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

9. Incest pursuant to NRS 201.180.

10. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

11. Open or gross lewdness pursuant to NRS 201.210.

12. Indecent or obscene exposure pursuant to NRS 201.220.

13. Lewdness with a child pursuant to NRS 201.230.

14. Sexual penetration of a dead human body pursuant to NRS 201.450.

15. *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony.*

16. Annoyance or molestation of a minor pursuant to NRS 207.260.

~~16~~ 17. An attempt to commit an offense listed in subsections 1 to ~~15~~ 16, inclusive.

~~17~~ 18. An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~18~~ 19. An offense committed in another jurisdiction that, if committed in this state, would be an offense listed in this section. This subsection includes, but is not limited to, an offense prosecuted in:

(a) A tribal court.

(b) A court of the United States or the Armed Forces of the United States.

~~19~~ 20. An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subsection includes, but is not limited to, an offense prosecuted in:

(a) A tribal court.

(b) A court of the United States or the Armed Forces of the United States.

(c) A court having jurisdiction over juveniles.

Sec. 22. NRS 179D.610 is hereby amended to read as follows:

179D.610 1. "Sex offender" means a person who, after July 1, 1956, is or has been:

(a) Convicted of a sexual offense listed in NRS 179D.620; or

(b) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subsection ~~19~~ 20 of NRS 179D.620.

2. The term includes, but is not limited to:
 - (a) A sexually violent predator.
 - (b) A nonresident sex offender who is a student or worker within this state.

Sec. 23. NRS 179D.620 is hereby amended to read as follows:

179D.620 "Sexual offense" means any of the following offenses:

1. Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.
2. Sexual assault pursuant to NRS 200.366.
3. Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony.
4. Battery with intent to commit sexual assault pursuant to NRS 200.400.
5. An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section.
6. An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.
7. Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony.
8. An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.
9. Incest pursuant to NRS 201.180.
10. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony.
11. Open or gross lewdness pursuant to NRS 201.210, if punished as a felony.
12. Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony.
13. Lewdness with a child pursuant to NRS 201.230.
14. Sexual penetration of a dead human body pursuant to NRS 201.450.
15. *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony.*
16. Annoyance or molestation of a minor pursuant to NRS 207.260, if punished as a felony.
- ~~16.~~ *17.* An attempt to commit an offense listed in subsections 1 to ~~15.~~ *16,* inclusive, if punished as a felony.
- ~~17.~~ *18.* An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.
- ~~18.~~ *19.* An offense committed in another jurisdiction that, if committed in this state, would be an offense listed in this section. This subsection includes, but is not limited to, an offense prosecuted in:
 - (a) A tribal court.
 - (b) A court of the United States or the Armed Forces of the United States.

~~19.1~~ 20. An offense of a sexual nature committed in another jurisdiction and punished as a felony, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subsection includes, but is not limited to, an offense prosecuted in:

- (a) A tribal court.
- (b) A court of the United States or the Armed Forces of the United States.
- (c) A court having jurisdiction over juveniles.

Sec. 24. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, if the board releases on parole a prisoner convicted of stalking with the use of an Internet or network site or electronic mail or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child using a computer, system or network pursuant to paragraph (a) or (b) of subsection 3 of section 4 of this act, the board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.*

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

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

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

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

3. *Except as otherwise provided in subsection 1, if the board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.*

4. *As used in this section:*

(a) *“Computer” has the meaning ascribed to it in NRS 205.4735.*

(b) *“Network” has the meaning ascribed to it in NRS 205.4745.*

(c) *“System” has the meaning ascribed to it in NRS 205.476.*

Sec. 25. NRS 213.107 is hereby amended to read as follows:
213.107 As used in NRS 213.107 to 213.157, inclusive, *and section 24 of this act*, unless the context otherwise requires:

1. “Board” means the state board of parole commissioners.
2. “Chief” means the chief parole and probation officer.
3. “Division” means the division of parole and probation of the department of motor vehicles and public safety.

4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the board.

5. "Sex offender" means any person who has been or is convicted of a sexual offense.

6. "Sexual offense" means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450 ~~†~~ *or paragraph (a) or (b) of subsection 3 of section 4 of this act;*

(b) An attempt to commit any offense listed in paragraph (a); or

(c) 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.

7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the board or the chief.

Sec. 26. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The board shall not release on parole a prisoner convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The administrator of the division of mental health and developmental services of the department of human resources or his designee;

(b) The director of the department of prisons or his designee; and

(c) A psychologist licensed to practice medicine in this state, certifies that the prisoner was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

2. A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the department of prisons may not be paroled unless a panel recertifies him in the manner set forth in subsection 1.

3. The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.

4. This section does not create a right in any prisoner to be certified or continue to be certified. No prisoner may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to place a prisoner before a panel for certification pursuant to this section.

5. The provisions of this section apply to a prisoner convicted of any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(d) Abuse or neglect of a child pursuant to NRS 200.508.

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

- (f) Incest pursuant to NRS 201.180.
- (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.
- (h) Open or gross lewdness pursuant to NRS 201.210.
- (i) Indecent or obscene exposure pursuant to NRS 201.220.
- (j) Lewdness with a child pursuant to NRS 201.230.
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450.
- (l) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony.*

~~(m)~~ An attempt to commit an offense listed in paragraphs (a) to ~~(l)~~; ~~inclusive.~~

~~(m)~~ *(m), inclusive.*

~~(n)~~ Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

Sec. 27. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. In addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 2 against a child under the age of 14 years, the board shall, when appropriate:

- (a) Require the parolee to participate in psychological counseling;
- (b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and
- (c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.

2. The provisions of subsection 1 apply to a prisoner who was convicted of:

- (a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;
- (b) Abuse or neglect of a child pursuant to paragraph (a) of subsection 2 of NRS 200.508;
- (c) An offense punishable pursuant to subsection 2 of NRS 200.750;
- (d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;
- (e) Lewdness with a child pursuant to NRS 201.230; ~~(e)~~
- (f) *Luring a child using a computer, system or network pursuant to section 4 of this act, if punished as a felony; or*

~~(g)~~ Any combination of the crimes listed in paragraphs (a) to ~~(e)~~ *(f)*, inclusive.

Sec. 28. Section 2 of Assembly Bill No. 400 of this session is hereby amended to read as follows:

Sec. 2. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated or harassed, and that actually causes the victim to feel terrorized, frightened, intimidated or harassed, commits the crime of stalking.

Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

- (a) For the first offense, is guilty of a misdemeanor.
- (b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who ~~1.~~

~~—(a) Commits~~ **commits** the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm ~~;~~

~~—(b) Commits the crime of stalking on his spouse while a proceeding for the dissolution of their marriage is pending for which he has actual or legal notice or within 6 months after entry of the final decree of dissolution; or~~

~~—(c) Commits the crime of stalking on a person with whom he has a child in common while a proceeding for the custody of that child is pending for which he has actual or legal notice,~~ commits the crime of aggravated stalking.

~~13.— A person who commits the crime of stalking with the use of an Internet or network site or electronic mail or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.~~

~~4.~~ A person who commits the crime of aggravated stalking shall be punished ~~1.~~

~~—(a) If he commits the crime set forth in paragraph (a) of subsection 2,~~ for a category B felony 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 \$5,000.

~~1(b) If he commits the crime set forth in paragraph (b) or (c) of subsection 2:~~

~~—(1) For the first offense, for a gross misdemeanor.~~

~~—(2) For the second and any subsequent offense, for a category B felony 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 \$5,000.~~

~~5.~~ **3. A person who commits the crime of stalking with the use of an Internet or network site or electronic mail or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.**

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

~~6.~~ **5.** The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

~~7.~~ **6.** As used in this section:

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

(b) "Internet or network site" means any identifiable site on the Internet or on a network. The term includes, without limitation:

(1) A website or other similar site on the World Wide Web;

(2) A site that is identifiable through a Uniform Resource Location;

(3) A site on a network that is owned, operated, administered or controlled by a provider of Internet service;

(4) An electronic bulletin board;

(5) A list server;

(6) A newsgroup; or

(7) A chat room.

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

(d) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4748.

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

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

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

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

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

Sec. 29. The amendatory provisions of this act do not apply to offenses committed before the effective date of this act.

Sec. 30. This act becomes effective upon passage and approval.