

**Amendment No. 690**

Senate Amendment to Assembly Bill No. 88 Second Reprint (BDR 15-267)

**Proposed by:** Senate Committee on Judiciary

**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date		
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

NCA/BAW



Date: 5/18/2009

A.B. No. 88—Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography.  
(BDR 15-267)



## ASSEMBLY BILL NO. 88—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—~~Establishes a civil remedy for a person who was a victim of a sexual offense which was used to promote~~ **Makes various changes relating to** child pornography. (BDR 15-267)

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 sexual offenses; **prohibiting a person from using the Internet to access child pornography;** establishing a civil remedy **under certain circumstances** for a person who ~~was a victim of a sexual offense which was used to promote~~ **appeared in** child pornography; **providing a penalty;** and providing other matters properly relating thereto.

## Legislative Counsel's Digest:

1 Section 1 of this bill **prohibits a person from using the Internet to access child**  
2 **pornography.**

3 ~~Section 4 of this bill~~ establishes a civil cause of action for a person who, ~~was a minor, was~~  
4 ~~a victim of a sexual offense where any depiction of sexual conduct of the offense was used to~~  
5 ~~promote~~ **while under the age of 16 years, appeared in** child pornography ~~and suffered~~  
6 **personal or psychological injury as the result.** A ~~victim~~ **person** who prevails in such an  
7 action may recover his actual damages, which are deemed to be at least \$150,000, plus  
8 attorney's fees and costs. **Section 3** of this bill establishes the statute of limitations for such an  
9 action.

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

1 **Section 1.** Chapter 200 of NRS is hereby amended by adding thereto a new  
2 section to read as follows:

3 ~~I. Any person who, while a minor, was a victim of a sexual offense of which~~  
4 ~~any depiction of sexual conduct of such offense was used to promote child~~  
5 ~~pornography and who suffered personal or psychological injury as a result may~~  
6 ~~bring an action against any person who promoted or possessed the child~~  
7 ~~pornography, regardless of whether the victim is now an adult.~~

~~2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least \$150,000, plus attorney's fees and costs.~~

~~3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.~~

~~4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.~~

~~5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.~~

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

~~(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.~~

~~(b) "Sexual offense" means a violation of NRS 200.366 or 201.220.]~~

1. Any person who, knowingly, willfully and with the specific intent to view any film, photograph or other visual presentation depicting a person under the age of 16 years engaging in or simulating sexual conduct, uses the Internet to access such a film, photograph or other visual presentation is guilty of:

(a) For the first offense, a category C felony and shall be punished as provided in NRS 193.130.

(b) For any subsequent offense, 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. As used in this section, "sexual conduct" means sexual intercourse, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

**Sec. 2.** NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, **and section 1 of this act**, unless the context otherwise ~~provides:] requires:~~

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

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

**Sec. 3.** NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in **subsection 2 and** NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

(a) Reaches 18 years of age; or

1 (b) Discovers or reasonably should have discovered that his injury was caused  
2 by the sexual abuse,  
3 whichever occurs later.

4 2. *An action to recover damages pursuant to section ~~44~~ 4 of this act must be*  
5 *commenced within 3 years after the occurrence of the following, whichever is*  
6 *later:*

7 (a) *The court enters a verdict in a related criminal case; or*

8 (b) *The victim reaches the age of 18 years.*

9 3. As used in this section, "sexual abuse" has the meaning ascribed to it in  
10 NRS 432B.100.

11 Sec. 4. Chapter 41 of NRS is hereby amended by adding thereto a new  
12 section to read as follows:

13 1. Any person who, while under the age of 16 years, appeared in any film,  
14 photograph or other visual presentation engaging in sexual conduct and who  
15 suffered personal or psychological injury as a result may bring an action against  
16 any person who, while over the age of 18 years, knowingly and willfully:

17 (a) Promoted the film, photograph or other visual presentation;

18 (b) Possessed the film, photograph or other visual presentation; or

19 (c) Used the Internet to access the film, photograph or other visual  
20 presentation, with the specific intent to view the film, photograph or other visual  
21 presentation.

22 2. A plaintiff who prevails in an action brought pursuant to this section may  
23 recover his actual damages, which shall be deemed to be at least \$150,000, plus  
24 attorney's fees and costs.

25 3. A plaintiff may request to use a pseudonym instead of his name in all  
26 court proceedings and records related to an action brought pursuant to this  
27 section. Upon notification that a plaintiff has requested to use a pseudonym, the  
28 court shall ensure that the pseudonym is used in all court proceedings and  
29 records.

30 4. It is not a defense to a cause of action under this section that a defendant  
31 did not know the plaintiff or did not engage in the sexual conduct with the  
32 plaintiff.

33 5. As used in this section:

34 (a) "Promote" has the meaning ascribed to it in NRS 200.700.

35 (b) "Sexual conduct" means sexual intercourse, fellatio, cunnilingus,  
36 bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or  
37 the penetration of any object manipulated or inserted by a person into the genital  
38 or anal opening of the body of another.