

SENATE BILL NO. 33—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED DECEMBER 20, 2012

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing voluntary sexual conduct between a prisoner and another person. (BDR 16-320)

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 crimes; revising the definition of “sexual conduct” as it relates to conduct between a prisoner and another person; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a prisoner who is in lawful custody or confinement,
2 other than certain prisoners in the custody of the Division of Parole and Probation
3 of the Department of Public Safety or residential confinement, and who voluntarily
4 engages in sexual conduct with another person is guilty of a category D felony. A
5 person who voluntarily engages in sexual conduct with such a prisoner is also
6 guilty of a category D felony. (NRS 212.187) This bill, which incorporates
7 language from the Prison Rape Elimination Act of 2003, 42 U.S.C. §§ 15601-
8 15609 (2003) and which is intended to comply with that Act, revises the definition
9 of “sexual conduct” to include certain acts if the act is unauthorized and committed
10 with the intent to abuse another person or to arouse, appeal to or gratify the sexual
11 desires of a person.

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

1 **Section 1.** NRS 212.187 is hereby amended to read as follows:
2 212.187 1. A prisoner who is in lawful custody or
3 confinement, other than in the custody of the Division of Parole
4 and Probation of the Department of Public Safety pursuant to



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1 NRS 209.4886 or 209.4888 or residential confinement, and who
2 voluntarily engages in sexual conduct with another person is guilty
3 of a category D felony and shall be punished as provided in
4 NRS 193.130.

5 2. A person who voluntarily engages in sexual conduct with a
6 prisoner who is in lawful custody or confinement, other than in the
7 custody of the Division of Parole and Probation of the Department
8 of Public Safety pursuant to NRS 209.4886 or 209.4888 or
9 residential confinement, is guilty of a category D felony and shall be
10 punished as provided in NRS 193.130.

11 3. As used in this section, "sexual conduct":

12 (a) Includes *any of the following acts ~~[of masturbation,] if the~~*
13 *act is unauthorized and committed with the intent to abuse*
14 *another person or to arouse, appeal to or gratify the sexual desires*
15 *of a person:*

16 (1) *Masturbation, homosexuality, sexual intercourse or*
17 *physical contact with another person's clothed or unclothed genitals*
18 *, ~~[or] public area [to arouse, appeal to or gratify the sexual desires of~~*
19 *a person.] , anus, buttocks, inner thigh or breasts;*

20 (2) *Requiring another person to expose his or her genitals,*
21 *buttocks or breasts;*

22 (3) *Fondling, kissing or caressing another person;*

23 (4) *Invading the privacy of another person by watching the*
24 *person change clothing or use a shower, toilet or urinal; or*

25 (5) *Attempting, threatening or requesting to engage in any*
26 *act that constitutes sexual conduct pursuant to this paragraph.*

27 (b) Does not include acts of a person who has custody of a
28 prisoner or an employee of the institution in which the prisoner is
29 confined that are performed to carry out the necessary duties of such
30 a person or employee.

31 **Sec. 2.** This act becomes effective upon passage and approval.

