

ASSEMBLY BILL NO. 59—COMMITTEE ON
CORRECTIONS, PAROLE, AND PROBATION

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Corrections,
Parole, and Probation

SUMMARY—Revises provisions governing lifetime supervision of
sex offenders. (BDR 16-392)

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

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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 governing
sex offenders who are under a program of lifetime
supervision; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

1 Existing law sets forth certain conditions to be imposed on sex offenders placed
2 under a program of lifetime supervision, or released on parole, probation or a
3 suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) In *McNeill v.*
4 *State*, 132 Nev. Adv. Op. 54, 375 P.3d 1022 (2016), the Nevada Supreme Court
5 held that the State Board of Parole Commissioners does not have the authority to
6 impose conditions that are not enumerated in NRS 213.1243 on sex offenders under
7 a program of lifetime supervision. This bill authorizes the Board to establish
8 additional conditions for sex offenders under a program of lifetime supervision that
9 are similar to those placed on sex offenders released on parole, probation or a
10 suspended sentence.

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



1 any period of probation or any term of imprisonment and any period
2 of release on parole. The program must provide for the lifetime
3 supervision of sex offenders by parole and probation officers.

4 2. Lifetime supervision shall be deemed a form of parole for:

5 (a) The limited purposes of the applicability of the provisions of
6 NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and
7 subsection 2 of NRS 213.110; and

8 (b) The purposes of the Interstate Compact for Adult Offender
9 Supervision ratified, enacted and entered into by the State of Nevada
10 pursuant to NRS 213.215.

11 3. Except as otherwise provided in subsection 9, the Board
12 shall require as a condition of lifetime supervision that the sex
13 offender reside at a location only if:

14 (a) The residence has been approved by the parole and probation
15 officer assigned to the person.

16 (b) If the residence is a facility that houses more than three
17 persons who have been released from prison, the facility is a facility
18 for transitional living for released offenders that is licensed pursuant
19 to chapter 449 of NRS.

20 (c) The person keeps the parole and probation officer informed
21 of his or her current address.

22 4. Except as otherwise provided in subsection 9, the Board
23 shall require as a condition of lifetime supervision that the sex
24 offender, unless approved by the parole and probation officer
25 assigned to the sex offender and by a psychiatrist, psychologist or
26 counselor treating the sex offender, if any, not knowingly be within
27 500 feet of any place, or if the place is a structure, within 500 feet of
28 the actual structure, that is designed primarily for use by or for
29 children, including, without limitation, a public or private school, a
30 school bus stop, a center or facility that provides day care services, a
31 video arcade, an amusement park, a playground, a park, an athletic
32 field or a facility for youth sports, or a motion picture theater. The
33 provisions of this subsection apply only to a sex offender who is a
34 Tier 3 offender.

35 5. Except as otherwise provided in subsection 9, if a sex
36 offender is convicted of a sexual offense listed in subsection 6 of
37 NRS 213.1255 against a child under the age of 14 years, the sex
38 offender is a Tier 3 offender and the sex offender is sentenced to
39 lifetime supervision, the Board shall require as a condition of
40 lifetime supervision that the sex offender:

41 (a) Reside at a location only if the residence is not located
42 within 1,000 feet of any place, or if the place is a structure, within
43 1,000 feet of the actual structure, that is designed primarily for use
44 by or for children, including, without limitation, a public or private
45 school, a school bus stop, a center or facility that provides day care



1 services, a video arcade, an amusement park, a playground, a park,
2 an athletic field or a facility for youth sports, or a motion picture
3 theater.

4 (b) As deemed appropriate by the Chief, be placed under a
5 system of active electronic monitoring that is capable of identifying
6 his or her location and producing, upon request, reports or records
7 of his or her presence near or within a crime scene or prohibited area
8 or his or her departure from a specified geographic location.

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

12 6. A sex offender placed under the system of active electronic
13 monitoring pursuant to subsection 5 shall:

14 (a) Follow the instructions provided by the Division to maintain
15 the electronic monitoring device in working order.

16 (b) Report any incidental damage or defacement of the
17 electronic monitoring device to the Division within 2 hours after the
18 occurrence of the damage or defacement.

19 (c) Abide by any other conditions set forth by the Division with
20 regard to his or her participation under the system of active
21 electronic monitoring.

22 7. Except as otherwise provided in this subsection, a person
23 who intentionally removes or disables or attempts to remove or
24 disable an electronic monitoring device placed on a sex offender
25 pursuant to this section is guilty of a gross misdemeanor. The
26 provisions of this subsection do not prohibit a person authorized by
27 the Division from performing maintenance or repairs to an
28 electronic monitoring device.

29 8. Except as otherwise provided in subsection 7, a sex offender
30 who commits a violation of a condition imposed on him or her
31 pursuant to the program of lifetime supervision is guilty of a
32 category B felony and shall be punished by imprisonment in the
33 state prison for a minimum term of not less than 1 year and a
34 maximum term of not more than 6 years, and may be further
35 punished by a fine of not more than \$5,000.

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

40 10. The Board shall require as a condition of lifetime
41 supervision that the sex offender not have contact or communicate
42 with a victim of the sexual offense or a witness who testified against
43 the sex offender or solicit another person to engage in such contact
44 or communication on behalf of the sex offender, unless approved by



1 the Chief or his or her designee and a written agreement is entered
2 into and signed.

3 11. *The Board may require as a condition of lifetime*
4 *supervision, in addition to any other condition imposed pursuant*
5 *to this section, that the sex offender:*

6 (a) *Submit to a search and seizure of the sex offender's*
7 *person, residence or vehicle or any property under the sex*
8 *offender's control, at any time of the day or night, without a*
9 *warrant, by any parole and probation officer or any peace officer,*
10 *for the purpose of determining whether the sex offender has*
11 *violated any condition of lifetime supervision or committed any*
12 *crime.*

13 (b) *Accept a position of employment or a position as a*
14 *volunteer only if it has been approved by the parole and probation*
15 *officer assigned to the sex offender and keep the parole and*
16 *probation officer informed of the location of the sex offender's*
17 *position of employment or position as a volunteer.*

18 (c) *Abide by any curfew imposed by the parole and probation*
19 *officer assigned to the sex offender.*

20 (d) *Participate in and complete a program of professional*
21 *counseling approved by the Division.*

22 (e) *Submit to periodic tests, as requested by the parole and*
23 *probation officer assigned to the sex offender, to determine*
24 *whether the sex offender is using a controlled substance.*

25 (f) *Submit to periodic polygraph examinations, as requested by*
26 *the parole and probation officer assigned to the sex offender.*

27 (g) *Abstain from consuming, possessing or having under the*
28 *sex offender's control any alcohol.*

29 (h) *Not use aliases or fictitious names.*

30 (i) *Not obtain a post office box unless the sex offender receives*
31 *permission from the parole and probation officer assigned to the*
32 *sex offender.*

33 (j) *Not have contact with a person less than 18 years of age in*
34 *a secluded environment unless another adult who has never been*
35 *convicted of a sexual offense is present and permission has been*
36 *obtained from the parole and probation officer assigned to the sex*
37 *offender in advance of each such contact.*

38 (k) *Comply with any protocol concerning the use of*
39 *prescription medication prescribed by a treating physician,*
40 *including, without limitation, any protocol concerning the use of*
41 *psychotropic medication.*

42 (l) *Not possess any sexually explicit material that is deemed*
43 *inappropriate by the parole and probation officer assigned to the*
44 *sex offender.*



1 (m) *Not patronize a business which offers a sexually related*
2 *form of entertainment and which is deemed inappropriate by the*
3 *parole and probation officer assigned to the sex offender.*

4 (n) *Not possess any electronic device capable of accessing the*
5 *Internet and not access the Internet through any such device or*
6 *any other means, unless possession of such a device or such*
7 *access is approved by the parole and probation officer assigned to*
8 *the sex offender.*

9 (o) *Inform the parole and probation officer assigned to the sex*
10 *offender if the sex offender expects to be or becomes enrolled as a*
11 *student at an institution of higher education or changes the date*
12 *of commencement or termination of the sex offender's enrollment*
13 *at an institution of higher education. As used in this paragraph,*
14 *"institution of higher education" has the meaning ascribed to it in*
15 *NRS 179D.045.*

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

22 ~~H2.1~~ **13.** For the purposes of prosecution of a violation by a
23 sex offender of a condition imposed upon him or her pursuant to the
24 program of lifetime supervision, the violation shall be deemed to
25 have occurred in, and may only be prosecuted in, the county in
26 which the court that imposed the sentence of lifetime supervision
27 pursuant to NRS 176.0931 is located, regardless of whether the acts
28 or conduct constituting the violation took place, in whole or in part,
29 within or outside that county or within or outside this State.

30 **Sec. 2.** The amendatory provisions of this act apply to a person
31 who is placed under a program of lifetime supervision before, on or
32 after the effective date of this act.

33 **Sec. 3.** This act becomes effective upon passage and approval.



