

CHAPTER.....

AN ACT relating to sexual conduct; establishing a rebuttable presumption in civil actions concerning unwelcome or nonconsensual sexual conduct between a law enforcement officer and a person in his or her custody; prohibiting sexual conduct between a law enforcement officer and a person who is under arrest or is currently detained by any law enforcement officer; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person from voluntarily engaging in sexual conduct with a prisoner who is in lawful custody or confinement and provides that any person who violates such a prohibition is guilty of a category D felony. (NRS 212.187) **Section 1.5** of this bill provides that if a law enforcement officer voluntarily engages in sexual conduct with a person who is under arrest or is currently detained by the law enforcement officer or any other law enforcement officer, the law enforcement officer is guilty of a category D felony. **Section 1.5** also provides that the consent of a person who was under arrest or detained by any law enforcement officer to any sexual conduct with a law enforcement officer is not a defense to a prosecution for such unlawful sexual conduct.

Section 1 of this bill establishes a rebuttable presumption in any civil action concerning any unwelcome or nonconsensual sexual conduct, including sexual harassment, that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any civil action concerning any unwelcome or nonconsensual sexual conduct, including, without limitation, sexual harassment, there is a rebuttable presumption that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.

2. As used in this section, “sexual harassment” has the meaning ascribed to it in NRS 176A.280.



Sec. 1.5. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless an act committed in violation of this section constitutes sexual assault pursuant to NRS 200.366, a law enforcement officer who voluntarily engages in sexual conduct with a person who is under arrest or is currently detained by the law enforcement officer or any other law enforcement officer is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. The consent of a person who was under arrest or detained by any law enforcement officer to any sexual conduct with a law enforcement officer is not a defense to a prosecution for any act prohibited by this section.

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

(a) Includes acts of masturbation, sexual penetration or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.

(b) Does not include acts of a law enforcement officer that are performed to carry out the necessary duties of the law enforcement officer.

Sec. 2. (Deleted by amendment.)

