
SENATE BILL NO. 300—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning technological crimes. (BDR 15-438)

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 crimes; limiting the fee that may be charged by a provider of Internet service for providing information pursuant to certain subpoenas; revising the provision relating to using technology to lure children; increasing the number of members of the Advisory Board for the Nevada Task Force for Technological Crime; providing that the crime of using technology to lure a child constitutes immoral conduct for the purposes of certain provisions related to educational personnel; providing that certain licensed educational employees forfeit their rights of employment if convicted of such a crime; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 193.340 is hereby amended to read as follows:
2 193.340 1. A provider of Internet service who violates the
3 provisions of 18 U.S.C. § 2703 ~~[, as that section existed on June 13,~~
4 ~~2001,]~~ is guilty of a misdemeanor and shall be punished by a fine of
5 not less than \$50 or more than \$500 for each violation.

6 2. In investigating criminal activity that involves or may
7 involve the use of a computer, the Attorney General, a district
8 attorney, the sheriff of any county in this state, the head of any



1 organized police department of any municipality in this state, the
2 head of any department of this state engaged in the enforcement of
3 any criminal law of this state and any sheriff or chief of police of a
4 municipality may, if there is reasonable cause to believe that an
5 individual subscriber or customer of a provider of Internet service
6 has committed an offense through the use of the services of the
7 provider of Internet service , ~~[that is punishable as a felony.]~~ issue a
8 subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 ~~[,~~
9 ~~as that section existed on June 13, 2001.]~~ to compel the provider of
10 Internet service to provide information concerning the individual
11 subscriber or customer that the provider of Internet service is
12 required to disclose pursuant to 18 U.S.C. § 2703 . ~~[, as that section~~
13 ~~existed on June 13, 2001.]~~

14 3. *If a person who has been issued a subpoena pursuant to*
15 *subsection 2 charges a fee for providing the information, the fee*
16 *must not exceed the actual cost for providing the information.*

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

23 ~~[4.]~~ 5. As used in this section, “provider of Internet service”
24 has the meaning ascribed to it in NRS 205.4758, but does not
25 include a public library when it is engaged in providing access to the
26 Internet.

27 **Sec. 2.** NRS 201.265 is hereby amended to read as follows:

28 201.265 Except as otherwise provided in NRS 200.720 and
29 201.2655, *and unless a greater penalty is provided pursuant to*
30 *NRS 201.560*, a person is guilty of a misdemeanor if the person
31 knowingly:

32 1. Distributes or causes to be distributed to a minor material
33 that is harmful to minors, unless the person is the parent, guardian or
34 spouse of the minor.

35 2. Exhibits for distribution to an adult in such a manner or
36 location as to allow a minor to view or to have access to examine
37 material that is harmful to minors, unless the person is the parent,
38 guardian or spouse of the minor.

39 3. Sells to a minor an admission ticket or pass for or otherwise
40 admits a minor for monetary consideration to any presentation of
41 material that is harmful to minors, unless the minor is accompanied
42 by his parent, guardian or spouse.

43 4. Misrepresents that he is the parent, guardian or spouse of a
44 minor for the purpose of:



- 1 (a) Distributing to the minor material that is harmful to minors;
- 2 or
- 3 (b) Obtaining admission of the minor to any presentation of
- 4 material that is harmful to minors.

5 5. Misrepresents his age as 18 or over for the purpose of

- 6 obtaining:
- 7 (a) Material that is harmful to minors; or
 - 8 (b) Admission to any presentation of material that is harmful to
 - 9 minors.

10 6. Sells or rents motion pictures which contain material that is

11 harmful to minors on the premises of a business establishment open

12 to minors, unless the person creates an area within the establishment

13 for the placement of the motion pictures and any material that

14 advertises the sale or rental of the motion pictures which:

- 15 (a) Prevents minors from observing the motion pictures or any
- 16 material that advertises the sale or rental of the motion pictures; and
- 17 (b) Is labeled, in a prominent and conspicuous location, "Adults
- 18 Only."

19 **Sec. 3.** NRS 201.560 is hereby amended to read as follows:

20 201.560 1. Except as otherwise provided in subsection 2, a

21 person shall not use a computer, system or network to knowingly

22 contact or communicate with or attempt to contact or communicate

23 with a child who is less than 16 years of age and who is at least 5

24 years younger than the person with the intent to persuade, lure or

25 transport the child away from his home or from any location known

26 to his parent or guardian or other person legally responsible for the

27 child to a place other than where the child is located, for any

28 purpose:

- 29 (a) Without the express consent of the parent or guardian or
- 30 other person legally responsible for the child; and
- 31 (b) With the intent to avoid the consent of the parent or guardian
- 32 or other person legally responsible for the child.

33 2. The provisions of this section do not apply if the contact or

34 communication is made or attempted with the intent to prevent

35 imminent bodily, emotional or psychological harm to the child.

36 3. A person who violates or attempts to violate the provisions

37 of this section:

- 38 (a) With the intent to engage in sexual conduct with the child or
- 39 to cause the child to engage in sexual conduct, is guilty of a
- 40 category B felony and shall be punished by imprisonment in the
- 41 state prison for a minimum term of not less than 1 year and a
- 42 maximum term of not more than 10 years and may be further
- 43 punished by a fine of not more than \$10,000;

- 44 (b) By providing the child with ~~obscene~~ material *that is*
- 45 *harmful to minors* or requesting the child to provide the person



1 with ~~[obscene material,]~~ *material that is harmful to minors*, is
2 guilty of a category C felony and shall be punished as provided in
3 NRS 193.130; or

4 (c) If paragraph (a) or (b) does not apply, is guilty of a gross
5 misdemeanor.

6 4. As used in this section:

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

8 (b) *"Harmful to minors" has the meaning ascribed to it in*
9 *NRS 201.257.*

10 (c) "Material" means anything that is capable of being used or
11 adapted to arouse interest, whether through the medium of reading,
12 observation, sound or in any other manner.

13 ~~[(e)]~~ (d) "Network" has the meaning ascribed to it in
14 NRS 205.4745.

15 ~~[(d) "Obscene" has the meaning ascribed to it in NRS 201.235.]~~

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

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

19 **Sec. 4.** NRS 205A.040 is hereby amended to read as follows:

20 205A.040 1. The Advisory Board for the Nevada Task Force
21 for Technological Crime is hereby created.

22 2. The Board consists of ~~[nine]~~ *13* members as follows:

23 (a) The Attorney General.

24 (b) The Director of the Department of Information Technology.

25 (c) One member of the Senate appointed by the Majority Leader
26 of the Senate.

27 (d) One member of the Assembly appointed by the Speaker of
28 the Assembly.

29 (e) ~~[Five]~~ *Nine* other persons appointed by the Governor as
30 follows:

31 (1) Two persons who represent major sectors of the economy
32 of this state that are impacted significantly by technological crimes.

33 (2) ~~[One person who is an employee]~~ *Three persons who are*
34 *employees* of a *state or local* law enforcement agency . ~~[of this~~
35 ~~state.]~~

36 (3) One person who is an employee of a public educational
37 institution within this state.

38 (4) One person who is a resident of this state and who is
39 employed by the Federal Government.

40 (5) *Two persons who are representatives of the general*
41 *public.*

42 3. *Each member of the Board who is appointed pursuant to*
43 *paragraphs (c) and (d) of subsection 2 serves for a term of 2 years.*

44 Each member of the Board who is appointed ~~[to the Board]~~
45 *pursuant to paragraph (e)* serves for a term of 4 years. A vacancy



1 on the Board in an appointed position must be filled in the same
2 manner as the original appointment. A member may be reappointed
3 to the Board.

4 4. The members of the Board shall elect a Chairman and Vice
5 Chairman by majority vote. After the initial election, the Chairman
6 and Vice Chairman shall hold office for a term of 1 year beginning
7 on July 1 of each year. If a vacancy occurs in the chairmanship or
8 vice chairmanship, the members of the Board shall elect a Chairman
9 or Vice Chairman, as appropriate, from among its members for the
10 remainder of the unexpired term.

11 5. The members of the Board:

12 (a) Serve without compensation; and

13 (b) May, upon written request, receive the per diem allowance
14 and travel expenses provided for state officers and employees
15 generally while engaged in the business of the Board.

16 6. A member of the Board who is an officer or employee of
17 this state or a political subdivision of this state must be relieved
18 from his duties without loss of his regular compensation so that he
19 may prepare for and attend meetings of the Board and perform any
20 work necessary to carry out the duties of the Board in the most
21 timely manner practicable. A state agency or political subdivision of
22 this state shall not require an officer or employee who is a member
23 of the Board to make up the time he is absent from work to carry out
24 his duties as a member of the Board or use annual vacation or
25 compensatory time for the absence.

26 **Sec. 5.** NRS 391.311 is hereby amended to read as follows:

27 391.311 As used in NRS 391.311 to 391.3197, inclusive,
28 unless the context otherwise requires:

29 1. "Administrator" means any employee who holds a license as
30 an administrator and who is employed in that capacity by a school
31 district.

32 2. "Board" means the board of trustees of the school district in
33 which a licensed employee affected by NRS 391.311 to 391.3197,
34 inclusive, is employed.

35 3. "Demotion" means demotion of an administrator to a
36 position of lesser rank, responsibility or pay and does not include
37 transfer or reassignment for purposes of an administrative
38 reorganization.

39 4. "Immorality" means an act forbidden by NRS 200.366,
40 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220,
41 201.230, 201.265, **201.560** or 207.260.

42 5. "Postprobationary employee" means an administrator or a
43 teacher who has completed the probationary period as provided in
44 NRS 391.3197 and has been given notice of reemployment.



1 6. "Probationary employee" means an administrator or a
2 teacher who is employed for the period set forth in NRS 391.3197.

3 7. "Superintendent" means the superintendent of a school
4 district or a person designated by the board or superintendent to act
5 as superintendent during the absence of the superintendent.

6 8. "Teacher" means a licensed employee the majority of whose
7 working time is devoted to the rendering of direct educational
8 service to pupils of a school district.

9 **Sec. 6.** NRS 391.314 is hereby amended to read as follows:

10 391.314 1. If a superintendent has reason to believe that
11 cause exists for the dismissal of a licensed employee and he is of the
12 opinion that the immediate suspension of the employee is necessary
13 in the best interests of the pupils in the district, the superintendent
14 may suspend the employee without notice and without a hearing.
15 Notwithstanding the provisions of NRS 391.312, a superintendent
16 may suspend a licensed employee who has been officially charged
17 but not yet convicted of a felony or a crime involving moral
18 turpitude or immorality. If the charge is dismissed or if the
19 employee is found not guilty, he must be reinstated with back pay,
20 plus interest, and normal seniority. The superintendent shall notify
21 the employee in writing of the suspension.

22 2. Within 5 days after a suspension becomes effective, the
23 superintendent shall begin proceedings pursuant to the provisions of
24 NRS 391.312 to 391.3196, inclusive, to effect the employee's
25 dismissal. The employee is entitled to continue to receive his salary
26 and other benefits after the suspension becomes effective until the
27 date on which the dismissal proceedings are commenced. The
28 superintendent may recommend that an employee who has been
29 charged with a felony or a crime involving immorality be dismissed
30 for another ground set forth in NRS 391.312.

31 3. If sufficient grounds for dismissal do not exist, the employee
32 must be reinstated with full compensation, plus interest.

33 4. A licensed employee who furnishes to the school district a
34 bond or other security which is acceptable to the board as a
35 guarantee that he will repay any amounts paid to him pursuant to
36 this subsection as salary during a period of suspension is entitled to
37 continue to receive his salary from the date on which the dismissal
38 proceedings are commenced until the decision of the board or the
39 report of the hearing officer, if the report is final and binding. The
40 board shall not unreasonably refuse to accept security other than a
41 bond. An employee who receives salary pursuant to this subsection
42 shall repay it if he is dismissed or not reemployed as a result of a
43 decision of the board or a report of a hearing officer.



1 5. A licensed employee who is convicted of a crime which
2 requires registration pursuant to NRS 179D.200 to 179D.290,
3 inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an
4 act forbidden by NRS 200.508, 201.190 , ~~201.265~~ *or 201.560*
5 forfeits all rights of employment from the date of his arrest.

6 6. A licensed employee who is convicted of any crime and who
7 is sentenced to and serves any sentence of imprisonment forfeits all
8 rights of employment from the date of his arrest or the date on
9 which his employment terminated, whichever is later.

10 7. A licensed employee who is charged with a felony or a
11 crime involving immorality or moral turpitude and who waives his
12 right to a speedy trial while suspended may receive no more than 12
13 months of back pay and seniority upon reinstatement if he is found
14 not guilty or the charges are dismissed, unless proceedings have
15 been begun to dismiss the employee upon one of the other grounds
16 set forth in NRS 391.312.

17 8. A superintendent may discipline a licensed employee by
18 suspending the employee with loss of pay at any time after a hearing
19 has been held which affords the due process provided for in this
20 chapter. The grounds for suspension are the same as the grounds
21 contained in NRS 391.312. An employee may be suspended more
22 than once during the employee's contract year, but the total number
23 of days of suspension may not exceed 20 in 1 contract year. Unless
24 circumstances require otherwise, the suspensions must be
25 progressively longer.

26 **Sec. 7.** The terms of the currently appointed members of the
27 Advisory Board for the Nevada Task Force for Technological Crime
28 expire by limitation on July 1, 2003.

29 **Sec. 8.** 1. As soon as practicable on or after July 1, 2003:

30 (a) The Majority Leader of the Senate shall appoint a member of
31 the Senate to serve as a member of the Advisory Board for the
32 Nevada Task Force for Technological Crime.

33 (b) The Speaker of the Assembly shall appoint a member of the
34 Assembly to serve as a member of the Advisory Board for the
35 Nevada Task Force for Technological Crime.

36 (c) Notwithstanding the provisions of subsection 3 of NRS
37 205A.040, the Governor shall appoint nine members from the
38 groups identified in paragraph (e) of subsection 2 of NRS 205A.040
39 to serve as members of the Advisory Board for the Nevada Task
40 Force for Technological Crime as follows:

41 (1) Four members to serve for a term of 3 years.

42 (2) Five members to serve for a term of 4 years.

43 2. After the expiration of the terms of the members appointed
44 pursuant to paragraph (c) of subsection 1, the Governor shall



- 1 appoint all members to the Advisory Board for the Nevada Task
- 2 Force for Technological Crime to serve for terms of 4 years.
- 3 **Sec. 9.** This act becomes effective on July 1, 2003.

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