

ASSEMBLY BILL NO. 349—ASSEMBLYMAN FRIERSON

MARCH 18, 2019

Referred to Committee on Judiciary

SUMMARY—Prohibits sexual conduct between a law enforcement officer and a person who is under arrest or is currently detained by any law enforcement officer. (BDR 15-1003)

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; 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:

1 Existing law prohibits a person from voluntarily engaging in sexual conduct
2 with a prisoner who is in lawful custody or confinement and provides that any
3 person who violates such a prohibition is guilty of a category D felony. (NRS
4 212.187) This bill provides that if a law enforcement officer voluntarily engages in
5 sexual conduct with a person who is under arrest or is currently detained by the law
6 enforcement officer or any other law enforcement officer, the law enforcement
7 officer is guilty of a category D felony. This bill also provides that the consent of a
8 person who was under arrest or detained by any law enforcement officer to any
9 sexual conduct with a law enforcement officer is not a defense to a prosecution for
10 such unlawful sexual conduct.

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

1 **Section 1.** Chapter 201 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. Unless an act committed in violation of this section*
4 *constitutes sexual assault pursuant to NRS 200.366, a law*
5 *enforcement officer who voluntarily engages in sexual conduct*



1 *with a person who is under arrest or is currently detained by the*
2 *law enforcement officer or any other law enforcement officer is*
3 *guilty of a category D felony and shall be punished as provided in*
4 *NRS 193.130.*

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

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

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

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

