

Amendment No. 188

Senate Amendment to Senate Bill No. 8	(BDR 16-408)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 8—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 14, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the conditions for lifetime supervision of sex offenders. (BDR 16-408)

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 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:

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) In *McNeill v. State*, 132 Nev. Adv. Op. 54, 375 P.3d 1022 (2016), the Nevada Supreme Court held that the State Board of Parole Commissioners does not have the authority to impose conditions that are not enumerated in NRS 213.1243 on sex offenders under a program of lifetime supervision. This bill authorizes the Board to establish additional conditions for sex offenders under a program of lifetime supervision that are similar to those placed on sex offenders released on parole, probation or a suspended sentence. **This bill also provides that for purposes of prosecution of a violation of a condition imposed upon such offenders: (1) the violation shall be deemed to have occurred in the county that imposed the sentence of lifetime supervision, and may only be prosecuted therein, if the violation occurred outside this State; or (2) the violation shall be deemed to have occurred in the county in which the violation occurred, and may only be prosecuted therein, if the violation occurred in this State.**

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

Section 1. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

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

1 (a) The limited purposes of the applicability of the provisions of NRS
2 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS
3 213.110; and

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

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

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

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

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

15 4. Except as otherwise provided in subsection 9, the Board shall require as a
16 condition of lifetime supervision that the sex offender, unless approved by the
17 parole and probation officer assigned to the sex offender and by a psychiatrist,
18 psychologist or counselor treating the sex offender, if any, not knowingly be within
19 500 feet of any place, or if the place is a structure, within 500 feet of the actual
20 structure, that is designed primarily for use by or for children, including, without
21 limitation, a public or private school, a school bus stop, a center or facility that
22 provides day care services, a video arcade, an amusement park, a playground, a
23 park, an athletic field or a facility for youth sports, or a motion picture theater. The
24 provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

25 5. Except as otherwise provided in subsection 9, if a sex offender is convicted
26 of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the
27 age of 14 years, the sex offender is a Tier 3 offender and the sex offender is
28 sentenced to lifetime supervision, the Board shall require as a condition of lifetime
29 supervision that the sex offender:

30 (a) Reside at a location only if the residence is not located within 1,000 feet of
31 any place, or if the place is a structure, within 1,000 feet of the actual structure, that
32 is designed primarily for use by or for children, including, without limitation, a
33 public or private school, a school bus stop, a center or facility that provides day
34 care services, a video arcade, an amusement park, a playground, a park, an athletic
35 field or a facility for youth sports, or a motion picture theater.

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

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

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

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

47 (b) Report any incidental damage or defacement of the electronic monitoring
48 device to the Division within 2 hours after the occurrence of the damage or
49 defacement.

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

52 7. Except as otherwise provided in this subsection, a person who intentionally
53 removes or disables or attempts to remove or disable an electronic monitoring

1 device placed on a sex offender pursuant to this section is guilty of a gross
2 misdemeanor. The provisions of this subsection do not prohibit a person authorized
3 by the Division from performing maintenance or repairs to an electronic monitoring
4 device.

5 8. Except as otherwise provided in subsection 7, a sex offender who commits
6 a violation of a condition imposed on him or her pursuant to the program of lifetime
7 supervision is guilty of a category B felony and shall be punished by imprisonment
8 in the state prison for a minimum term of not less than 1 year and a maximum term
9 of not more than 6 years, and may be further punished by a fine of not more than
10 \$5,000.

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

15 10. The Board shall require as a condition of lifetime supervision that the sex
16 offender not have contact or communicate with a victim of the sexual offense or a
17 witness who testified against the sex offender or solicit another person to engage in
18 such contact or communication on behalf of the sex offender, unless approved by
19 the Chief or his or her designee and a written agreement is entered into and signed.

20 11. *The Board may, after making a finding for each condition, require as a*
21 *condition of lifetime supervision, in addition to any other condition imposed*
22 *pursuant to this section, that the sex offender:*

23 (a) *Submit to a search and seizure of the sex offender's person, residence or*
24 *vehicle or any property under the sex offender's control, at any time of the day or*
25 *night, without a warrant, by any parole and probation officer or any peace*
26 *officer, for the purpose of determining whether the sex offender has violated any*
27 *condition of lifetime supervision or committed any crime.*

28 (b) *Accept a position of employment or a position as a volunteer only if it has*
29 *been approved by the parole and probation officer assigned to the sex offender*
30 *and keep the parole and probation officer informed of the location of the sex*
31 *offender's position of employment or position as a volunteer.*

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

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

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

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

41 ~~*(g) Abstain from consuming, possessing or having under the sex offender's*~~
42 ~~*control any alcohol ~~or marijuana.~~*~~

43 ~~*(h) (g) Not use aliases or fictitious names.*~~

44 ~~*(i) Not obtain a post office box unless the sex offender receives permission*~~
45 ~~*from the*~~

46 ~~*(h) Inform the parole and probation officer assigned to the sex offender ~~of~~ of*~~
47 ~~*any post office box used by the sex offender;*~~

48 ~~*(j) (i) Not ~~have contact~~ visit or interact with a person less than 18 years*~~
49 ~~*of age ~~in a secluded environment~~ unless another adult who has never been*~~
50 ~~*convicted of a sexual offense is present and permission has been obtained from*~~
51 ~~*the parole and probation officer assigned to the sex offender in advance of each*~~
52 ~~*such ~~contact~~ visitation or interaction.*~~

1 ~~[(k)]~~ (j) Comply with any protocol concerning the use of prescription
 2 medication prescribed by a treating physician, including, without limitation, any
 3 protocol concerning the use of psychotropic medication.

4 ~~[(k)]~~ (k) Not possess any sexually explicit material that is ~~deemed~~
 5 inappropriate by the parole and probation officer assigned to the sex offender;
 6 harmful to minors as defined in NRS 201.257.

7 ~~[(m)]~~ (l) Not enter, visit or patronize ~~a business~~ an establishment which
 8 offers a sexually related form of entertainment ~~and which is deemed~~
 9 inappropriate by the parole and probation officer assigned to the sex offender.

10 ~~[(n)]~~ as its primary business;

11 (m) Not possess any electronic device capable of accessing the Internet and
 12 not access the Internet through any such device or any other means, unless
 13 ~~possession of~~ :

14 (1) The sex offender installs a device or subscribes to a service which
 15 enables the parole and probation officer assigned to the sex offender to regulate
 16 the sex offender's use of the Internet ~~such a device or such access is approved by~~
 17 the parole and probation officer assigned to the sex offender. ; and

18 (2) The Board states in writing the circumstances for imposing such a
 19 condition.

20 ~~[(o)]~~ (n) Inform the parole and probation officer assigned to the sex
 21 offender if the sex offender expects to be or becomes enrolled as a student at an
 22 institution of higher education or changes the date of commencement or
 23 termination of the sex offender's enrollment at an institution of higher education.
 24 As used in this paragraph, "institution of higher education" has the meaning
 25 ascribed to it in NRS 179D.045.

26 (o) Comply with any condition to report in person as imposed by the parole
 27 and probation officer assigned to the sex offender.

28 12. If a court issues a warrant for arrest for a violation of this section, the
 29 court shall cause to be transmitted, in the manner prescribed by the Central
 30 Repository for Nevada Records of Criminal History, notice of the issuance of the
 31 warrant for arrest in a manner which ensures that such notice is received by the
 32 Central Repository within 3 business days.

33 ~~[(2)]~~ 13. For the purposes of prosecution of a violation by a sex offender of a
 34 condition imposed upon him or her pursuant to the program of lifetime supervision
 35 ~~[(2)]~~ :

36 (a) In which the violation occurred outside this State, the violation shall be
 37 deemed to have occurred in, and may only be prosecuted in, the county in which
 38 the court that imposed the sentence of lifetime supervision pursuant to NRS
 39 176.0931 is located, regardless of whether the acts or conduct constituting the
 40 violation took place, in whole or in part, ~~within or~~ outside that county or ~~within~~
 41 ~~or~~ outside this State ~~[(2)]~~ ; or

42 (b) In which the violation occurred within this State, the violation shall be
 43 deemed to have occurred in, and may only be prosecuted in, the county in which
 44 the violation occurred.

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

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