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UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

The American Civil Liberties Union of Nevada, Does 1-8 and Does A-S, individuals,

Plaintiffs,

v.

Catherine Cortez Masto, Attorney General of the State of Nevada; Jerald Hafen, Director of the Nevada Department of Public Safety; Bernard W. Curtis, Chief, Parole and Probation Division of the Nevada Department of Public Safety; Captain P.K. O'Neill, Chief, Records and Technology Division of the Nevada Department of Public Safety; Michael Haley, Sheriff of the Washoe County Sheriff's Office; Michael Poehlman, Chief of the Reno Police Department; Richard A. Gammick, District Attorney of Washoe County; Douglas Gillespie, Sheriff of the Las Vegas Metropolitan Police Department; Joseph Forti, Chief of the North Las Vegas Police Department; David Roger, District Attorney of Clark County; Chief Richard Perkins, Henderson Police Department,

Defendants.

**42 U.S.C. § 1983 AMENDED
 COMPLAINT FOR
 DECLARATORY AND
 INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

Come now the Plaintiffs, Does 1-8 and Does A-S by and through the undersigned attorneys, and file this Complaint for injunctive and declaratory relief. This is an action under 42 U.S.C. § 1983 to address the unconstitutionality of Nevada's sex offender laws,¹ as modified by AB579 and SB471, passed by the Nevada State Legislature last session ("New Sex Offender Laws"). Plaintiffs challenge the New Sex Offender Laws both facially and as applied, and request that this Honorable Court declare the New Sex Offender Laws to be in violation of the U.S. and Nevada Constitutions and permanently enjoin the Defendants from enforcing the laws.

NATURE OF THE ACTION

As alleged with greater particularity below, Plaintiffs allege that specific provisions of the New Sex Offender Laws are unconstitutionally vague in violation of the due process protections of the U.S. and Nevada constitutions and amount to retroactive punishment, in violation of the *ex post facto* clause of the U.S. Constitution and the retroactivity clause of the Nevada Constitution. Plaintiffs also allege that the New Sex Offender Laws further violate the Due Process, Substantive Due Process, Equal Protection, Double Jeopardy, Contracts, and Takings clauses of the U.S. and Nevada Constitutions. Plaintiffs also allege that the New Sex Offender Laws violate their rights to acquire, possess and protect property; their rights to seek and obtain safety and happiness; their rights to travel, life and liberty; and their rights to freedom of association and religion protected by the First Amendment and Due Process Clause of the

¹ The specific provisions at issue are (1) N.R.S. 179D.113, N.R.S. 179D.115, N.R.S. 179D.117 and 179D.450 as amended by AB 579 (now changing tier level classifications and taking away individualized assessment for tier level determination); (2) N.R.S. 179D.443, N.R.S. 179D.475 and N.R.S. 179D.495 as amended by AB579 (now imposing website notification requirements on Tier II and Tier III sex offenders and Tier I sex offenders who are convicted of an offense against a child and imposing neighborhood notification on all Tier III offenders, including offenders previously not subject to community notification); (3) NRS 179B.250, N.R.S. 179D.441, N.R.S. 179D. 480 (now imposing neighborhood discretionary and mandatory community notification to all sex offenders and changing duty to register requirements) and (4); and N.R.S. 176A.410, N.R.S. 213.1245 as modified by SB471 (now imposing residency and movement restrictions on individuals on parole, probation or suspended sentence).

1 U.S. Constitution, as well as Article 1, Sections 4 and 8 of the Nevada Constitution.

2 Additionally, Plaintiffs allege that the New Sex Offender Laws constitute cruel and unusual
3 punishment in violation of the Eighth Amendment to the U.S. Constitution and Article 1, § 8 of
4 the Nevada Constitution. Finally, Plaintiffs allege that the New Sex Offender Laws violate the
5 Separation of Powers doctrine of the Nevada Constitution (NEV. CONST., ART. 1, § 8, cl. 6).
6 Plaintiffs are challenging the New Sex Offender Laws both facially and as applied to them.
7

8 **I. JURISDICTION**

9
10 1. This Court has original subject matter jurisdiction over the federal Constitutional
11 violations alleged in this Complaint pursuant to the provisions of 42 U.S.C. § 1983 and 28
12 U.S.C. §§ 1331 and 1343. Pursuant to 28 U.S.C. §1367(a), this Court has supplemental
13 jurisdiction over Plaintiff's state law claims. This Court has jurisdiction to issue injunctive and
14 declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.
15

16 2. Venue is proper in the District of Nevada pursuant to 28 U.S.C. §1391. All
17 parties work and reside in Nevada, and all actions pertinent to this complaint occurred in Clark
18 County, Elko County, or Washoe County, Nevada.

19 **II. PARTIES**

20
21 3. Plaintiff American Civil Liberties Union of Nevada is a non-profit civil liberties
22 organization, and brings suits to protect the constitutional rights of all the residents of Nevada.
23 At least one member of the ACLU, Doe 2, is a member of the ACLU. The ACLU has received
24 hundreds of complaints by sex offenders in Nevada about the implementation of AB579 and
25 SB471.
26
27
28

1 4. Plaintiff Doe 1, a resident of Clark County, Nevada, was convicted of a sexual
2 offense in 1986. He is currently a Tier II sex offender, and has been recently informed that he
3 will have to register as a Tier III sex offender beginning on July 1 of 2008.
4

5 5. Plaintiff Doe 2, a resident of Clark County, Nevada, was convicted of a sexual
6 offense in 1999. He is currently a Tier I sex offender, and has been recently informed that he
7 will have to register as a Tier III sex offender beginning on July 1 of 2008.
8

9 6. Plaintiff Doe 3, a resident of Washoe County, Nevada, was convicted of a sexual
10 offense in 2005. He is currently a Tier I sex offender and has been recently informed that he will
11 have to register as a Tier III sex offender beginning on July 1 of 2008.
12

13 7. Plaintiff Doe 4, a resident of Clark County, Nevada, was convicted of a sexual
14 offense in 1993. He was not required to register as a sex offender and has been recently
15 informed that he will have to register as a Tier III sex offender beginning on July 1 of 2008.
16

17 8. Plaintiff Doe 5, a resident of Washoe County, Nevada, was convicted of a sexual
18 offense in 2003. He is currently a Tier I sex offender and has been recently informed that he will
19 have to register as a Tier III sex offender beginning on July 1 of 2008.
20

21 9. Plaintiff Doe 6 is a resident of Clark County. He pled guilty to Assault and
22 Battery in 1993. He has been registering as a Tier II sex offender since 2000, but has recently
23 been informed that he will have to register as a Tier III sex offender beginning on July 1 of 2008.
24

25 10. Plaintiff Doe 7 is a resident of Elko County. He accepted a plea agreement in
26 1960, pleading guilty to statutory rape. Doe 7 has registered regularly as a Tier I sex offender
27 since the Nevada sex offender tier system was implemented. Recently, Doe 7 was informed that
28 he will have to register as a Tier II sex offender beginning on July 1 of 2008.

1 11. Plaintiff Doe 8, is a resident of Nye County. He pled guilty to one count of
2 Infamous Crimes Against Nature in 1977. After being incarcerated for 10 years and completing
3 10 years of parole, Doe 8 was pardoned by Governor Bob Miller and was only required to
4 register annually as a Tier I offender. In May 2008, Doe 8 was informed he will have to register
5 as a Tier III offender.
6

7 12. Plaintiff Doe A, a resident of Washoe County, Nevada was convicted of a sexual
8 offense in 2002. He is currently a Tier 1 sex offender and has recently been informed that he
9 will have to register as a Tier III sexual offender beginning on July 1, 2008.
10

11 13. Plaintiff Doe B, a resident of Clark County, Nevada was convicted of a sexual
12 offense in 1996. He is currently a Tier 1 sex offender and has recently been informed that he will
13 have to register as a Tier III sexual offender beginning on July 1, 2008.
14

15 14. Plaintiff Doe C, a resident of Clark County, Nevada was convicted of a sexual
16 offense in 1997. He is currently a Tier I sex offender and has recently been informed that he will
17 have to register as a Tier III sex offender beginning on July 1, 2208.
18

19 15. Plaintiff Doe D, a resident of Clark County, Nevada, was convicted of a sexual
20 offense in 2005. He is currently a Tier I sex offender and has been recently informed that he will
21 have to register as a Tier III sexual offender beginning on July 1, 2008.
22

23 16. Plaintiff Doe E, a resident of Clark County, Nevada, was convicted of a sexual
24 offense in 2002. He is currently a Tier II sex offender and has been recently informed that he
25 will have to register as a Tier III sexual offender beginning on July 1, 2008.
26

27 17. Plaintiff Doe F, a resident of Clark County, Nevada, was convicted of a sexual
28 offense in 1983. He is currently a Tier 1 sex offender and has been recently informed that he
will have to register as a Tier III sexual offender beginning on July 1, 2008.

1 18. Plaintiff Doe G, a resident of Clark County, Nevada, was convicted of a sexual
2 offense in 1983. He is currently a Tier 1 sex offender and has been recently informed that he
3 will have to register as a Tier III sexual offender beginning on July 1, 2008
4

5 19. Plaintiffs H through S are all similarly situated as above mentioned Does A-G in
6 that they are residents of Clark County, Nevada, are current Tier I or Tier II sex offenders, and
7 have been recently informed that they will have to register as either Tier II or Tier III sexual
8 offenders beginning on July 1, 2008..
9

10 20. “Does” herein refers to Does 1-8 and Does A-S.

11 21. Defendant Catherine Cortez Masto is the Attorney General of the State of
12 Nevada. Defendant Masto is sued in her official capacity.

13 22. Defendant Jerald Hafen is Director of the Nevada Department of Public Safety.
14 The Nevada Department of Public Safety is vested with the authority to enforce the New Sex
15 Offender Laws. Defendant Hafen is sued in his official capacity.
16

17 23. Defendant Bernard W. Curtis is the Chief of the Parole and Probation Division of
18 the Nevada Department of Public Safety. The Parole and Probation Division is vested with
19 authority to enforce the New Sex Offender Laws. Defendant Curtis is sued in his official
20 capacity.
21

22 24. Defendant Captain P.K. O'Neill is Chief of the Records and Technology Division
23 of the Nevada Department of Public Safety. The Records and Technology Division is vested
24 with authority to enforce the New Sex Offender Laws, including but not limited to the
25 community notification provisions (regarding website notification) therein. Defendant O'Neill is
26 sued in his official capacity.
27
28

1 25. Defendants Masto, O'Neill, and Curtis are hereafter collectively referred to as
2 "State Defendants."

3
4 26. Defendant Michael Haley is Sheriff of the Washoe County Sheriff's Office. The
5 Washoe County Sheriff's Office is vested with authority to enforce the New Sex Offender Laws,
6 including but not limited to the community notification provisions therein. Defendant Haley is
7 sued in his official capacity.

8 27. Defendant Michael Poehlman is Chief of the Reno Police Department. The Reno
9 Police Department is vested with authority to enforce the New Sex Offender Laws, including but
10 not limited to the community notification provisions therein. Defendant Poehlman is sued in his
11 official capacity.

12
13 28. Defendant Richard A. Gammick is District Attorney of Washoe County, and is
14 responsible for enforcement of the New Sex Offender Laws. Defendant Gammick is sued in his
15 official capacity.

16
17 29. Defendants Haley, Poehlman, and Gammick are hereafter collectively referred
18 to as "Washoe County Law Enforcement Defendants."

19 30. Defendant Douglas Gillespie is Sheriff of the Las Vegas Metropolitan Police
20 Department ("Metro"). Metro is vested with authority to enforce the New Sex Offender Laws,
21 including but not limited to the community notification provisions therein. Defendant Gillespie
22 is sued in his official capacity.

23
24 31. Joseph Forti is Chief of the North Las Vegas Police Department. The North Las
25 Vegas Police Department is vested with authority to enforce the New Sex Offender Laws,
26 including but not limited to the community notification provisions therein. Defendant Forti is
27 sued in his official capacity.
28

32. Defendant David Roger is the District Attorney for Clark County, Nevada.

Defendant David Roger is sued in his official capacity.

33. Defendant Richard Perkins is Chief of Police of the Henderson Police Department. The Henderson Police Department is vested with authority to enforce the New Sex Offender Laws, including but not limited to the community notification provisions therein. Defendant Perkins is sued in his official capacity.

III. STANDING

34. The ACLU has standing because it has at least one member, Doe 2, who has standing. The ACLU also serves as a resource center on civil liberties issues, including the New Sex Offender Laws, and has received hundreds of phone calls, walk-ins, requests for legal advice, and other requests for information about the implementation of the New Sex Offender Laws.

35. All Doe Plaintiffs are directly affected by the New Sex Offender Laws and their unconstitutional enforcement. The New Sex Offender Laws and their enforcement have directly caused a violation of Plaintiffs' rights under the U.S. and Nevada Constitutions. Thus, the requirements for Article III standing have been met.

IV. GENERAL ALLEGATIONS

THE NEW SEX OFFENDER LAWS

36. In June of 2007, Governor Gibbons signed AB579 and SB471 into law. The new laws were scheduled to be implemented in their entirety on July 1, 2008² AB579 and SB471 will dramatically change how sex offenders are defined and classified in Nevada, and what restrictions and requirements apply to sex offenders. The laws were integrated with Nevada's

² A preliminary injunction staying their implementation was issued on June 30, 2008.

1 existing sex offender laws. "New Sex Offender Laws" herein refers to the revised statutes
2 pertaining to sex offenders, as amended by AB579 and SB4171. The current system is based
3 upon an individualized assessment of risk of recidivism. N.R.S. 179D.113, N.R.S. 179D.115, and
4 N.R.S. 179D.117, addressing tier level registration, as amended by AB579 and AB579, replace
5 the existing individualized, risk-based system with a tier assignment dictated only by the crime
6 committed by the offender, and now include offenders who committed any crime with any
7 "sexual element" or that is "sexually motivated" since July 1, 1956. Many offenders who were
8 previously classified by the State of Nevada as Tier I, or low risk, offenders are now being
9 retroactively reclassified as Tier III offenders. On information and belief, there are also
10 offenders who have been determined by the State of Nevada to be a higher risk and classified as
11 Tier II or Tier III offenders whose tier level will be decreased. On information and belief,
12 numerous people not previously considered "sex offenders" will now fall under the changed
13 definition and will be required to register and subject to community notification and other
14 onerous requirements and limitations. These restrictions are being imposed retroactively,
15 regardless of the limitations imposed – or not imposed – on offenders at sentencing. Thus,
16 AB579 and SB471 are being applied to the effect that requirements imposed on offenders
17 conflict with those terms contained in existing sentencing orders and plea agreements.

18 ***Categorization of sex offenders***

19 37. AB579 established a tier level system that classifies "offenders convicted of
20 crimes against children" and "sex offenders," which is now codified in N.R.S. Title 14 Procedure
21 in Criminal Cases, 179D Registration of Sex Offenders and Offenders Convicted of a Crime
22 Against a Child. N.R.S. 179D.095 defines "sex offender" as "a person who, after July 1, 1956, is
23 or has been" a) "convicted of a sexual offense listed in N.R.S. 179D.097..." OR has been

1 “adjudicated delinquent by a court having jurisdiction over juveniles of a certain crimes against a
2 child that is listed in N.R.S. 62F.200 if the offender was 14 or older when the crime was
3 committed.”³ Thus, whether someone is considered a sex offender and falls within the law
4 depends on whether their crime falls within the definition of “sexual offense” contained in
5 N.R.S. 179D.097.
6

7 38. This definition is extremely broad and far-reaching. First, it includes crimes that
8 were committed as far back as July 1, 1956. Second, the only sexual conduct that appears to be
9 exempted is consensual sexual conduct if the victim was an adult or at least 13 years of age and
10 the offender was not more than four years older than the victim at the time the offense was
11 committed. N.R.S. 179D.097(2). Crimes that constitute “sexual offenses” range from a first
12 degree murder committed in the perpetration of sexual assault of a child less than 14 years of age
13 to the following catch-all category that could include many relatively minor, victimless offenses,
14 including misdemeanors:
15

16 **any other offense that has an element involving a sexual act or sexual**
17 **conduct with another.**
18

19 N.R.S. 179D.097(1)(p). The meaning of “sexual act” or “sexual conduct” is not defined, nor is
20 any other statutory definition referenced. Under a separate chapter, 201 of Title 15, N.R.S.
21 201.263 defines “sexual conduct” in the context of prostitution as “acts of masturbation,
22 homosexuality, sexual intercourse or physical contact with a person’s unclothed genitals or pubic
23 area.” While it is unclear whether this definition is applicable for purposes of defining sexual
24

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26
27 ³ As to offenders convicted of crimes against children, NRS 179D.0559 defines “offender
28 convicted of a crime against a child as “a person who, after July 1, 1956, is or has been”
convicted of certain crimes against children listed in NRS 179D.0357 or has been “adjudicated
delinquent by a court having jurisdiction over juveniles of a certain crimes against a child that is
listed in NRS 62F.200 if the offender was 14 or older when the crime was committed.”

1 conduct under N.R.S. 179D.097(1)(p), it shows how broadly "sexual conduct" could be
2 interpreted and how many individuals could be subject to at least a Tier I categorization.

3
4 39. On information and belief, due to the broad scope of the definition of sexual
5 offender, individuals who may never have been required to register as sex offenders in the past
6 will now have to. For example, if an individual "knowingly causes to be performed or exhibited,
7 or engages in the performance or exhibition of, any obscene, indecent or immoral show, act or
8 performance is guilty of a misdemeanor." N.R.S. 201.253. Individuals convicted under N.R.S.
9 201.253 are only required to pay a fine not exceeding \$1000 or be imprisoned in jail not to
10 exceed six months. N.R.S. 193.120. However, after the new law goes into effect on July 1, that
11 same individual will now be required to register as a Tier I level sex offender.
12

13
14 40. In addition to the broad catch-all category, the definition of "sexual offense"
15 extends to offenses that are "determined to be sexually motivated pursuant to N.R.S. 175.547 or
16 207.193." N.R.S. 179D.097(1)(r). N.R.S. 175.547 defines an offense that is sexually motivated
17 and states, "an offense is sexually motivated if one of the purposes for which the person
18 committed the offense was sexual gratification." Thus, if an individual masturbates or is caught
19 naked or flashing in a park in violation of N.R.S. 201.220, the individual could be classified as a
20 sex offender. Similarly, stealing pornography out of a store could be considered a sexually
21 motivated offense and thus the individual could be classified as a sex offender. And, as noted
22 above, all of these crimes would fall within the definition of "sex offender," even if they were
23 committed more than fifty years ago.⁴
24
25

26
27 ⁴ It is unclear whether individuals who were convicted of a crime that constituted a sexual
28 offense pre-2008 but is no longer a crime today would be classified as a sex offender. For
example, it is unclear whether an individual convicted of sodomy in 1960 would be classified as
a sex offender today and be required to register as such.

1 41. The scope of the duties and restrictions offenders are subject to – such as where
2 they can live, and how long they have to register for – depends on which tier level they are
3 assigned to. Prior to the changes in the law, sex offenders were individually assessed based on
4 guidelines created by the Attorney General for risk of recidivism pursuant to N.R.S. 179D.720.
5 These factors included but were not limited to; past criminal history, age of the victim,
6 psychological profile, and response to treatment and behavior. N.R.S. 179D.720(c).

7
8 42. Under the New Sex Offender Laws, now all “sex offenders” and “offenders
9 convicted of a crime against a child” are *automatically* assigned to a tier level, depending on the
10 crime that they committed. N.R.S. 179D.113-117. Tier III is the most restrictive tier and
11 previously was reserved for high-risk offenders while Tier I is the least restrictive tier and was
12 previously considered the low-risk tier.

13
14 43. While the law is ambiguous, the classification appears to work as follows: (a)
15 Offenders convicted of the *specific* offenses listed in N.R.S. 179D.117 are Tier III offenders; (b)
16 Offenders who do not already “fit” in the Tier III bucket and were convicted of one of the
17 specific offenses listed in N.R.S. 179D.115 are Tier II offenders; and (c) any offenders who fit
18 the definition of “sex offender” or “offenders convicted of crimes against children” are Tier I
19 offenders. All sex offenders are at least Tier I: N.R.S. 179D.113 states that “‘Tier I offender’
20 means an offender convicted of a crime against a child or a sex offender other than Tier II or Tier
21 III offender.” N.R.S. 179D.115 states that “‘Tier II offender means an offender convicted of a
22 crime against a child or a sex offender, other than a Tier III offender, whose crime against a child
23 is punishable by imprisonment for more than 1 year” or whose sexual offense falls within one of
24 the specifically listed crimes if committed against a child. *See* N.R.S. 179D.115(1)(a)-(e).
25
26 N.R.S. 179D.117 states that “‘Tier III offender’ means an offender convicted of a crime against a
27
28

1 child or a sex offender who has been convicted of one of the specifically listed crimes which
 2 include murder, sexual assault, battery, abuse of a child under 13 years of age and kidnapping as
 3 well as the attempted forms of any of these crimes. See N.R.S. 179D.117(1)-(5).
 4

5 44. On information and belief, many people who committed non-violent and minor
 6 crimes will now be classified in the same category as dangerous offenders. For example, an 18
 7 year old individual who is convicted of statutory rape for having sex with their 15 year old
 8 boyfriend or girlfriend will now be classified as a Tier II sex offender. N.R.S. 200.364; N.R.S.
 9 179D.113-117. A dangerous offender such as an individual who is convicted of prostituting a
 10 child pursuant to N.R.S. 201.300 to 201.340 could also be a Tier II level offender ,
 11

12 45. There is no means to challenge or seek a reduction in a tier level assignment and
 13 its implications, other than a reduction of the registration period that is available in two very
 14 limited circumstances: (1) offenders who now fall within Tier I and who have already registered
 15 for ten consecutive years; and (2) Tier III juvenile offenders who have already registered for
 16 twenty-five consecutive years. N.R.S. 179D.490(3) as amended by AB579, Sec. 41.
 17

18 ***Registration Duties***

19 46. Under the New Sex Offender Laws, all "sex offenders" must register with local
 20 law enforcement. N.R.S. 179D.240. Which tier level an offender falls with in determines the
 21 length of mandatory registration. Tier I offenders must register for 15 years; Tier II for 25; Tier
 22 III for life. N.R.S. 179D.460, as amended by AB 579, Sec. 22-24. The duty to register is
 23 retroactive:
 24

25 In addition to any other registration that is required pursuant to N.R.S. 179D.450,
 26 each offender or sex offender who, **after July, 1, 1956 is or has been convicted**
 27 **of a crime against a child or a sexual offense** shall register with local law
 28 enforcement

1 N.R.S. 179D.460, as amended by AB 579, Sec. 39. What is not clear, however, is how long
2 offenders must register for if they were convicted before AB579 goes into effect in July. N.R.S.
3 179D.490 states that "registration begins on the date that the Central Repository or appropriate
4 agency of another jurisdiction establishes a record of registration for the offender or sex offender
5 or the date that the offender or sex offender is released, whichever occurs later." Thus, there is a
6 discrepancy between individuals who are currently registering and those individuals who are
7 either done registering or have never been required to register. For example, it seems for an
8 individual who is currently required to register, the years that they have accumulated thus far
9 would count towards the total minimum years required pursuant to N.R.S. 179D.490. However,
10 for those individuals who were previously not required to register or have already completed
11 their registration requirements per their probation or parole agreement, it seems they would have
12 to start at zero upon registering, as the statute requires the years of registration to be consecutive.
13
14
15

16 ***Lack of Notice***

17 47. Under the New Sex Offender Laws, offenders are not entitled to notice regarding
18 their tier assignment or the duties or limitations imposed on them. While the prior law, N.R.S.
19 179D.740, provided for notification to defendants regarding their tier level determination, that
20 section was repealed by AB 579, Sec. 6. After July 1, 2008, there will be no mechanism for
21 ensuring that all offenders are apprised of their status as sex offenders, their tier level
22 assignment, or their duties to register. Pursuant to N.R.S. 176.0926, the court is supposed to
23 notify at sentencing defendant's tier level and requirement to register as a sex offender,
24 however, N.R.S. 176.0926 also waives the court's liability for failure to notify the defendant.
25 Similarly, incarcerated individuals and those individuals who are currently on probation, parole
26 or lifetime supervision are to be notified by the Central Repository pursuant to N.R.S. 179D.450
27
28

1 of their new tier level and requirement to register. However, again, N.R.S. 179D.450 waives
2 any liability of the Central Repository for failing to notify the offender.

3 48. While all "sex offenders" from July 1, 1956 to the present appear to have an
4 individual responsibility to register pursuant to N.R.S. 179D.240, there is no provision on how
5 they will be provided with notice of this duty or of their tier level. Those individuals who are
6 suddenly required to re-register and are no longer "in the system" – or were never "in the
7 system" to begin with, will have no way of receiving notice of these new changes and
8 registration requirements. The broad – and unclear – definition of "sexual offender" further
9 complicates matters. If the state is not statutorily required to give notice to the individual of
10 their changed status, essentially the duty is left up to the individual to determine if their specific
11 offense categorizes them as a sexual offender and thus requires them to register.
12

13 49. N.R.S. 179D.710, which was repealed, set up guidelines for how individuals were
14 to request for reconsideration of tier risk assessment. Now, individuals no longer have the
15 ability to challenge their tier level classifications.
16

17 ***All offenders are subject to community notification***
18

19 50. As long as someone is subject to registration they are subject to community
20 notification. The law has not changed with regards to who the sex offender is required to notify,
21 however, the law has changed who the local law enforcement agency is required to notify. Prior
22 to July 1, N.R.S. 179D.730 controlled the procedure for how the community was notified of an
23 individual's sex offender status. For Tier I level offenders, law enforcement was required to
24 notify other law enforcement agencies that may encounter the offender. N.R.S. 179D.730. For
25 Tier II level offenders, law enforcement was also required to notify schools, religious
26 organizations and youth organizations that are likely to encounter the individual. *Id.* And for
27
28

Tier III offenders, law enforcement was required to notify the public through a means designed to reach members of the public who are likely to encounter the sex offender. *Id.* Now, pursuant to N.R.S. 179D.475, all offenders are subject to much broader community notification, even those who committed their crimes as far back as 1956. A sex offender is required to register and provide information to the local law enforcement agency which includes but is not limited to the offender's name and aliases, social security number, address, license plate number and description of motor vehicle information pursuant to N.R.S. 179D. 443. The local law enforcement agency then must provide the information collected from the individual as well as a photograph and fingerprints to the Central Repository pursuant to N.R.S. 179D.460. Local law enforcement must also provide the information to the following:

- (1) Each school, religious organization, youth organization and public housing authority in which the offender or sex offender resides or is a student or worker;
- (2) Each agency which provides child welfare services as defined in N.R.S. 432B.030;
- (3) Volunteer organizations in which contact with children or other vulnerable persons might occur; and
- (4) If the offender or sex offender is a Tier III offender, members of the public who are likely to encounter the offender or sex offender

N.R.S. 179D.475(a). Moreover, local law enforcement "[m]ay provide any updated information obtained from the Central Repository ... to any other person or entity whom the law enforcement agency determines warrants such notification." N.R.S. 179D.475(b). The Central Repository also has a duty to notify any agency responsible for conducting employment-related background checks and any organization, company or person who requests such notification. N.R.S. 179D.475(1).

51. While law enforcement is required to notify employers and other "members of the public who are likely to encounter" Tier III offenders, the extent of notification for Tier I and Tier II is completely within the discretion of local law enforcement. Tier I and Tier II offenders

1 – which, again, include any offenders convicted of any crime with any sexual element since July
2 1, 1956 – are left at the mercy of law enforcement regarding who else will be notified of their
3 sex offender status. The effect of the revised statute is that many individuals who were never
4 required to register before because their offense was not included in the definition of sexual
5 offense pursuant to N.R.S. 179D.097 will now be required to register with local law
6 enforcement and all offenders will be subject to broader community notification.
7

8 52. The language of the statute is unclear. It is ambiguous as to which institutions the
9 law enforcement agency will be *required* to notify. N.R.S. 179D.475(1)(b). There are also no
10 distance limitations to define where a sex offender is considered to “reside.” N.R.S.
11 179D.475(1) Similarly, the statute does not define who “members of the public” are and how
12 to determine who the offender is “likely to encounter.” *Id.*
13

14 53. Under the law, a Tier I individual who signed a plea agreement to minimal
15 registration and no community notification requirements may now have to register as a Tier III
16 sex offender and be subject to law enforcement informing individuals they are “likely to
17 encounter” of their Tier III status. Further, offenders who did not previously fall within the
18 definition of a sex offender pursuant to N.R.S. 179.095 will now have to register and will be
19 subject to discretionary community notification by local law enforcement.
20

21 54. Existing law N.R.S. 179B.200 requires the Central Repository (Department of
22 Public Safety) to establish a repository regarding sex offenders and offenders convicted of
23 certain crimes against children (“offenders”). AB579, Sec. 13 modifies N.R.S. 179B.250
24 regarding public access to information of offenders. N.R.S. 179B.250 now requires the Central
25 Repository to establish a community notification website and dictates the contents of the
26 website. Previously, only Tier II and III offenders were subject to the website, however the new
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28

1 law also includes "Tier I offenders who have been convicted of a sexual offense against a child
2 or a crime against a child." N.R.S. 179B.250(7)(b). Thus, once again, individuals who may not
3 have been classified as a sex offender prior to the changes in the law may now be subject to
4 community website notification. Moreover, the individuals subject to community website
5 notification will apply retroactively back to July 1, 1956.
6

7 55. A "crime against a child," as defined in N.R.S. 179D.210, criminalizes consensual
8 acts with any "child," defined as anyone under 18, and is not subject to the same similarity-in-
9 age exemption found in the definition of sex offender in N.R.S. 179D(2) ("Sexual offense" does
10 not include any act where the "victim" is "[a]t least 13 years of age and the offender was not
11 more than 4 years older than the victim at the time of the commission of the offense."). *See*,
12 *e.g.* N.R.S. 201.300(d) (Making a Category B felon of anyone who "persuades, encourages or
13 procures a person of previous chaste character to enter any place within this state in which
14 prostitution is practiced, encouraged or allowed, for the purpose of sexual intercourse").
15
16

17 56. N.R.S. 179B.250 requires that a warning be posted on the website explaining that
18 the information "should not be used to unlawfully injure, harass or commit a crime against any
19 person named in the registry or residing or working at any reported address and a notice that any
20 such action could result in civil or criminal penalties." N.R.S. 179B.250 states that the
21 information on the website cannot be used for the specified unlawful purposes, but it is unclear
22 whether a private organization who receives the information directly from the Central
23 Repository and not from the website is subject to the same restrictions. It is unclear whether
24 N.R.S. 179B.200 limit private agencies from posting the information obtained from the Central
25 Repository on their public websites. Similarly, it is unclear whether people who misuse the
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information “channeled” through private companies are subject to the same criminal and civil penalties listed in N.R.S. 179B.280.⁵

Lifetime Supervision

57. Pursuant to N.R.S. 213.1243, the conditions for lifetime supervision include such things as residency and movement restrictions for Tier III level offenders, restrictions on the number of released prisoners who can occupy one residence without a license, as well as approval of any residency location and payment of costs for participation under the system.⁶

58. As amended by AB579, Section 6, N.R.S. 176.0931 reads, in part:

1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.
2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

Based on the statutory language of N.R.S. 176.0931 it is unclear whether the lifetime supervision requirement will apply retroactively. The language of N.R.S. 176.0931 uses verbiage such as “the court shall include in sentencing” which implies that the new changes will not apply retroactively. However, since it appears that the registration requirement will apply retroactively pursuant to N.R.S. 179D.460 it is possible that the lifetime supervision requirement will apply retroactively as well. Further, it is not clear whether sex offenders *already* on lifetime supervision will be subject to the changed

⁵ On information and belief, private companies use the information from the Central Repository website, and then repackage and “resell” the information to law enforcement agencies who in turn give the public access to the information through their own websites. It is unclear whether private companies are required to post the same warning when they give the public access to the information through their websites.

⁶ As noted above, Tier III offenders must also register in person every 90 days. Together, the Lifetime Supervision and registration requirements in essence impose lifetime probation on Tier III offenders.

1 definitions/terms of lifetime supervision. Based on information and belief, Parole and
 2 Probation is imposing lifetime supervision and its changes retroactively.

3 ***Residence and Movement Restrictions.***

4
 5 59. N.R.S. 176A.410, 213.1243, 213.1245 and 213.1255⁷ establish movement and
 6 residence limitations on: (a) persons convicted of sexual offenses and granted probation and
 7 suspended sentences; (b) persons on lifetime supervision; and (c) prisoners released on parole.

8 N.R.S. 176A.410, 213.1243 and 213.1245 all state the defendant may not:

9
 10 knowingly be within 500 feet of any place, or if the place is a structure, within
 11 500 feet of the actual structure, that is designed primarily for use by or for
 12 children, including, without limitation, a public or private school, a school bus
 13 stop, a center or facility that provides day care services, a video arcade, an
 14 amusement park, a playground, a park, an athletic field or a facility for youth
 15 sports, or a motion picture theater. The provisions of this subsection apply only to
 16 a sex offender who is a Tier 3 offender.

17
 18 Similarly, they prohibit offenders who were convicted of a sexual offense listed in
 19 subsection 6 of N.R.S. 213.1255 against a child under the age of 14 years from:

20
 21 [living at any residence] within 1,000 feet of any place, or if the place is a
 22 structure, within 1,000 feet of the actual structure, that is designed
 23 primarily for use by or for children, including, without limitation, a public
 24 or private school, a school bus stop, a center or facility that provides day
 25 care services, a video arcade, an amusement park, a playground, a park, an
 26 athletic field or a facility for youth sports, or a motion picture theater.”

27 60. With respect to individuals placed on lifetime supervision (N.R.S. 176A.410) and
 28 probation or suspended sentence (N.R.S. 213.1243) the movement restrictions apply to all Tier
 III offenders but the residency restrictions only apply to Tier III offenders who are convicted of a
 sexual offense against a child under the age of 14 years, as listed in subsection 6 of N.R.S.
 213.1255. As for individuals placed on parole (N.R.S. 213.1245 & N.R.S. 213.1255) the

⁷ SB471, Secs. 2, 8, and 9 modified these provisions.

1 movement restrictions apply to individuals "convicted of an offense listed in N.R.S. 179D.097"
2 who are also Tier III level offenders. Just as for individuals subject to probation and lifetime
3 supervision, the 1,000-foot residency restriction applies to any parolee who was "convicted of an
4 offense listed in subsection 6 against a child under the age of 14 years and who is a Tier III
5 offender" is subject to 1000 foot residency restrictions. N.R.S. 213.1255(1). The difference
6 between the offenses listed in N.R.S. 213.1255 and N.R.S. 179D.097 results in a bizarre
7 discrepancy. Although the movement restrictions for parolees in N.R.S. 213.1255 would only
8 apply to individuals convicted of sexual assault or abuse/neglect of a child if either was
9 committed against a child under 14 years of age, N.R.S. 179D.097 applies to all the same
10 offenses as listed in N.R.S. 213.1255 as well as to individuals who were convicted of murder in
11 the perpetration of attempted sexual assault or sexual abuse, battery, and kidnapping. It is
12 unclear why there is this discrepancy in the statutes, but it is clearly an irrational and arbitrary
13 decision as to who is subjected to the movement and/or residency restrictions.

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17 61. It is not clear to whom the residence or movement restrictions apply, and whether
18 they apply retroactively. A proponent of the bill, Senator Dina Titus claims the intent of the New
19 Sex Offender laws was to make the residential limitation and monitoring applicable to any Tier
20 III offender. On July 8, 2007 Titus stated "Some of new sex-offender law applies to those on
21 supervision . . . [This bill] was drafted so that any Tier 3 sex offender is prohibited from living or
22 loitering within those distances. We picked Tier 3 because that's the most serious. It's not just
23 those under current supervision, or surveillance. It's all of them. That's the way it was intended,
24 and that's the way I understand it to be interpreted."⁸ However, the language of the statute
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⁸ <http://www.nevadaappeal.com/article/20070708/NEWS/107080095>.

1 seems to make the residency restrictions only applicable to Tier III offenders who committed an
2 offense against a child younger than 14 years of age. N.R.S. 179D.097.

3 62. Based on information and belief, Parole and Probation is imposing these
4 restrictions retroactively, and arbitrarily.
5

6 ***Non-Residents & Traveling***
7

8 63. Pursuant to N.R.S. 179D.460, if a non-resident is present for 48 hours or more
9 within an incorporated city that has a police department the sex offender is deemed a resident
10 offender and is required to register with the city police department within 48 hours of arrival. It
11 is unclear whether these individuals will also be subject to community notification pursuant to
12 N.R.S. 179B.250. After the individual sex offender registers with the city police department,
13 N.R.S. 179D.460(8) requires the police department to forward to the Central Repository the
14 information collected. Then, pursuant to N.R.S. 179B.250 the Central repository is required to
15 enter the information in the community notification website, and pursuant to N.R.S. 179D.475
16 law enforcement is also required to notify the specifically listed individuals or organizations
17 within the community. See N.R.S. 179D.475(1)(a)-(e) and (2)(a)(1)-(4). Based on the statutory
18 provisions for how newly registered sex offenders are handled by the law enforcement and the
19 Central Repository and the lack of any exception for non-resident sex offenders, it seems likely
20 that non-resident sex offenders will be subject to community notification.
21

22 64. There is nothing in the statutes regarding how non-residents are to receive notice
23 that they must register with the local police department. For those individuals who are required
24 to register as sex offenders in their own state there is a possibility that they will receive notice
25 from their state but it is not guaranteed and depends on each state's laws. In Nevada N.R.S.
26 179D.450 requires the Department of Corrections or local police department to inform the
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1 offender that he/she has a "duty to register in any other jurisdiction during any period in which
2 he is a resident of the other jurisdiction." N.R.S. 179D.450(3)(a)(1)(III). However, not only is
3 the Central Repository and/or police department's liability for failing to notify waived in N.R.S.
4 179D.450(4), there is also a problem with notification for individuals who are not required to
5 register as sex offenders in their home state but who would be classified as sex offenders under
6 Nevada's definition and thus would be required to register.

7
8 ***Punishment for violations of the New Sex Offender Laws***

9
10 65. Pursuant to N.R.S. 179D.550 an offender or sex offender who "fails to register
11 with a local law enforcement agency; fails to notify the local law enforcement agency of a
12 change of name, residence, employment or student status; or provides false or misleading
13 information to the Central Repository or a local law enforcement agency is guilty of a category D
14 felony and shall be punished as provided in N.R.S. 193.130." N.R.S. 193.130 states a category
15 D felony is punishable by no less than 1 year and no more than 4 years as well as up to \$5000 in
16 fines. This is a serious penalty, especially for an individual who may not receive notice of their
17 tier level or duty to register as a sex offender.
18

19 **THE EFFECTS ON THE DOES**

20
21 66. Plaintiff Doe 1 accepted a plea agreement in 1986, pleading guilty to Attempted
22 Lewdness with a Minor Under 14. The Court ordered a suspended sentence and two years
23 probation. As part of the probation agreement the court ordered Doe 1 to enroll and complete
24 counseling, have no contact with his victim, and perform 100 hours of community service. Doe
25 1 has completed all his requirements, was honorably discharged from probation in 1988 and has
26 not been convicted or charged with any misconduct or crimes since. Upon completing probation
27 in 1988, Doe 1 was not required to register as a sex offender. However, in 1998 Doe 1 received
28

1 notice, based on new sex offender laws, that he would be required to register as a Tier I level
2 offender. After an argument with a police officer when registering as a sex offender, his Tier
3 status was moved to Tier II. As a Tier II, Doe 1 was required to register every 180 days. He was
4 not subject to any community notification. Doe 1 has now been informed by the Department of
5 Safety that he will now be classified as a Tier III level offender and be required to register in
6 person every 90 days and will be subject to neighborhood and website notification. Doe 1 is also
7 concerned he will have to move as he lives within 1000 feet of a school in violation of the
8 movement/residency restrictions contained in SB 471. Doe 1 lives with his wife of fifty-one
9 years and has five children and twelve grandchildren that live in Las Vegas. Doe 1 is extremely
10 worried that his family will be subject to harassment and embarrassment upon community
11 notification of his sex offender status. Doe 1 would never have accepted the plea deal if he knew
12 what the State of Nevada would subject him and his family to.
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16 67. Plaintiff Doe 2 is a resident of Las Vegas and Clark County. He accepted a plea
17 agreement in 1997, pleading guilty to Attempted Lewdness with a Minor Under 14. He is
18 innocent, but took the plea to avoid the risk of prison time. The court ordered a suspended
19 sentence, five years probation and parole, and fees and restitution. The court also ordered that,
20 *while Doe 2 was on probation*, he was prohibited from going to the movies (except with his
21 fiancée), schools (except to pick up his son), and the parks. Doe 2 has completed all his
22 requirements and finished probation in 2006, and has not been convicted or charged with any
23 misconduct or crimes. However, despite his plea agreement, Doe 2 was required to be on lifetime
24 supervision after his probation ended. Doe 2 was assessed as a low danger to society, Tier 1. He
25 was only required to register in person once a year, and was only required to be on lifetime
26 supervision for a limited period. He was not subject to any community notification. Doe 2's
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1 Parole and Probation officer and the Nevada Department of Public Safety have informed him
2 that he is now a Tier III offender, despite the fact that he does not fit the apparent statutory
3 meaning of AB579. Now, Doe 2 must register in person every 90 days, is prohibited from
4 picking his children up from school or attending school events, will be subject to neighborhood
5 and website notification and is subject to the movement and residency restrictions contained in
6 SB 471. Doe 2 lives with his wife and three children, and shares custody of his son from his first
7 marriage. He fears for the safety of his family once community notification is implemented. Doe
8 2 would never have accepted the plea deal if he knew what the State of Nevada would subject
9 him and his family to. Doe 2 has been required to comply with the new requirements before the
10 effective date of July 1, 2008, and is confused about the meaning of the laws that apply to him.
11
12

13 68. Plaintiff Doe 3 is a resident of Reno and Washoe County. He accepted a plea
14 agreement in 2005, pleading guilty to Attempted Lewdness With a Minor Under 14. Doe 3 was
15 accidentally caught nude in his house by his granddaughter, but he never attempted any lewd
16 conduct with her. He accepted a plea deal to spare his family from trauma, and because he
17 believed that a vindictive, drug-addicted relative's testimony might convict him. The court
18 ordered a sentence of five years of probation and one year of house confinement. The court also
19 ordered that Doe 3 attend weekly counseling sessions. He was not subject to community
20 notification. Doe 3 signed the agreement with the understanding that he would not be classified
21 as anything but a Tier I offender, and that the law dictated that. Doe 3 also understood that he
22 would not be subject to any restrictions other than those in his plea agreement. Once community
23 notification is implemented, Doe 3 fears for the health and safety of his wife, who lives with him,
24 and their twenty year-old grandson who attends a nearby college, as well as himself. Doe 3
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1 would not have accepted the plea deal if he knew what the State of Nevada would subject him
2 and his family to.

3 69. Plaintiff Doe 4 is a resident of North Las Vegas and Clark County. He was
4 charged with child abuse and neglect in 2005. He refused numerous plea deals over a two-year
5 pretrial period because he was innocent and the deals required him to register as a sex offender,
6 which would severely limit his ability to participate in the day-to-day lives of his many
7 grandchildren. In 2005, just before trial, Doe 4 agreed to plead guilty to two counts of Child
8 Abuse and Neglect, with an on-the-record stipulation that the conviction would not include
9 registration. The court ordered a suspended sentence, five years of probation, therapeutic
10 counseling, DNA testing, fees, and restitution. Doe 4 is fully abiding by these conditions, going
11 to group therapy every week and reporting to Parole and Probation every month. Since the entry
12 of his Judgment of Conviction he has received periodic form letters from the Nevada Department
13 of Public Safety informing him that he needs to register. Each time he receives this type of letter,
14 Doe 4 takes it to his Probation Officer. When this first happened, his Probation Officer checked
15 with the court and confirmed that Doe 4 was not subject to registration. However, when Doe 4
16 took the latest copy of this same letter to his current Probation Officer, his Probation Officer told
17 him to immediately register with the Nevada State Police, which he did. Doe 4 now must
18 register in person every ninety days, will be subject to neighborhood and website community
19 notification, and is subject to the movement and residency restrictions contained in SB 471. Doe
20 4 lives with his wife of thirty-one years in the house that they have owned for thirty-one years.
21 He believes that he will immediately lose his job, because his employer frequently works at
22 parks and schools and he will lose the contact with his grandchild that he bargained for in the
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1 plea agreement. Doe 4 would never have accepted the plea agreement if he had known that terms
2 of the sentence and the explicit promise of the judge could be undone.

3
4 70. Plaintiff Doe 5 is a resident of Reno and Washoe County, Nevada. Doe 5 accepted
5 a plea agreement in 2003, pleading guilty to Lewdness with a Minor under 14 resulting from a
6 single event that he regrets and takes full responsibility for. He accepted the plea agreement to
7 avoid any further trauma to his daughter. Doe 5 was sentenced to five years of probation, which
8 he has successfully fulfilled; and lifetime supervision. While intoxicated, Doe 5 allowed his
9 eleven year-old daughter to inappropriately touch him. He immediately recognized the
10 seriousness of his conduct and sought the advice of his wife. After seeking help for the child
11 from local health service providers, Doe 5 voluntarily turned himself into the Washoe County
12 Sheriff and without delay sought counseling to deal with his own problems. Doe 5's
13 individualized sex offender evaluation classified him as Tier I offender, a low risk to society,
14 based upon his psychological assessment, history and the low severity of the incident (only
15 contact was above the clothes). In May 2008, Doe 5 received a letter from the Nevada
16 Department of Public Safety stating that he had been reclassified as Tier III offender, effective
17 July 1, 2008. Later that month, Doe 5 was informed by his Parole officer that his residence,
18 which had been previously approved by Parole and Probation, was now too close to the
19 neighborhood trailhead that leads into a private community park and playground, although the
20 actual playground and park is more than 1,000 feet from Doe 5's residence. He was notified that
21 he must sell the house that he lives in with his current wife and her stepson and move. Doe 5
22 believes that the financial burden of selling a house that was purchased just last year will
23 bankrupt his family and destroy the business that he recently started, especially in the current
24 economic climate. Doe 5 also fears that posting of his photograph, name, and other information
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1 on neighborhood fliers and on any community notification websites will result in his family
2 being singled out for scorn and ridicule and perhaps for threats of violence or destruction of
3 property.
4

5 71. Plaintiff Doe 6, is a resident of Clark County. In 1993, he pled guilty to Assault
6 and Battery. He was involved in a fight and punched a 16 year-old female. Doe 6 was sentenced
7 to six years in prison. After serving five years and six months, Doe 6 was released with no
8 parole or probation requirements. Doe 6 has been registering as a Tier II sex offender since
9 2000, but does not know why he ever had to register as a sex offender in the first place. He
10 complied with a request to register from a Metro police officer who visited his mother's house.
11 Doe 6 has been married for seven years. Once community notification requirements are
12 implemented, Doe 6 fears for his family's safety as well as his own. Doe 6 has two small
13 children and he worries that they will suffer humiliation and ridicule as they grow up.
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16 72. Plaintiff Doe 7 is a resident of Elko County. He accepted a plea agreement in
17 1960, pleading guilty to statutory rape. He was 18 years old and had sex with a 13 year-old
18 female. The court ordered Doe 7 to serve four years of probation. After serving four months,
19 Doe 7 violated his probation when he was arrested for drinking and stealing hay. Doe 7 was then
20 ordered to serve time in prison. After nine months, Doe 7 was released from prison, and was not
21 subject to any parole or probation requirements. Doe 7 registers regularly as a Tier I offender,
22 and has not had any legal problems since he was released from prison over forty years ago.
23 Once community notification is implemented, Doe 7 fears for his safety, and for the safety of his
24 wife of forty-seven years. Doe 7 and his numerous family members live in a town with a
25 population of about 3,000. Doe 7 fears that his family will suffer humiliation and ridicule from
26 community members.
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1 73. Plaintiff Doe 8 is 67 years old and lives with his wife in a small rural community
2 in Nye County. They have been married for 20 years and have one adult son as well as six
3 grandchildren. One day in 1977, when he was drunk, Doe 8 touched his adopted teenage
4 daughter inappropriately and now deeply regrets his mistake. After spending nine months in the
5 county jail awaiting trial, he plead guilty to one count of Infamous Crimes Against Nature and
6 was sentenced to life imprisonment with possibility of parole after ten years. He served ten years
7 in prison and another ten years of parole before receiving a Parole Termination and Commuting
8 order from Governor Bob Miller. He was told that this order meant that: (1) he was no longer
9 subject to parole or any other penal requirement; (2) there were no restrictions on where he could
10 live; (3) he could travel anywhere he wanted without further permission; and (4) the only
11 requirement was that he register annually as a Tier I sex offender, which he has done. Since he
12 retired, Doe 8 and his wife both volunteer for the Bureau of Land Management, researching and
13 maintaining historic sites in and around our community. In May, Doe 8 received a letter from
14 Nevada's Department of Public Safety informing him that his tier status has been changed from
15 Tier I to Tier III, the highest level. He is now required to furnish his email addresses along with
16 any other internet addresses. Doe 8 and his wife share a computer upon which they do historic
17 research, as well as use to communicate daily with their grandchildren. Doe 8's wife is under
18 contract to write books on local history, and Doe 8 and his wife fear that the publisher might
19 cancel the contract in fear of public backlash. They live in a small community, and they feel their
20 life will be permanently and adversely affected once community notification begins. To avoid
21 any potential problem they have told their grandchildren that they cannot come for their normal
22 two week summer visit. Doe 8 believes that, if imposed on him, the new residency and travel
23 restrictions re-impose the conditions that were officially terminated by the state's parole
24 commutation order. Doe 8 and his wife purchased their current home seven years ago, after
25 termination of parole supervision, but it is located approximately seven hundred feet from a
26 public school and he fears that he will have to sell his house should SB471 be applied
27 retroactively.
28

1 74. Plaintiff Doe A, a resident of Reno and Washoe County, Nevada, entered into a
2 plea agreement requiring him to plead guilty to two counts of Statutory Sexual Seduction. The
3 change in law will require him to take time off work every 90 days to register in person. Doe A
4 and his wife have been unable to sleep since the notification of the change in his Tier status. He
5 is worried about the effect this will have on his family if his wife's co-workers find out about his
6 prior convictions. He is extremely concerned that he will have to move since he lives close to a
7 school bus stop and this will be a profound financial hardship on his family since he lives three
8 blocks from his wife's parents so that she can help care for them. He is very worried that his
9 neighbors will find out about his prior conviction and retaliate against his wife and daughter. He
10 is afraid of losing his job as a heavy duty truck operator towing other big trucks since it might
11 require him to travel to an area frequented by children or next to or even on a school property.
12 He is also sometimes called out to tow school buses and is placed in close proximity to school
13 children leaving the bus. His job earns \$60,000.00 a year and he believes that he would have to
14 take a job earning only \$40,000.00 a year.

15 75. Plaintiff Doe B, a resident of Las Vegas, Clark County, Nevada entered a guilty
16 plea of one count of Attempted Sexual Assault. At sentencing the court ordered a suspended
17 sentence of 48 to 120 months and placed him on probation not to exceed five years. Doe B is in
18 very bad emotional health. He has great anxiety over the new law and does not understand its
19 effect on him. Doe B is the General Manager of a Construction Company that sometimes
20 requires him to travel to the homes of customers or those that live near schools. In the past his
21 construction company has accepted jobs on school property. He has already relocated his
22 business location since it was too close to a public park that children frequent. He also relocated
23 his residence in anticipation of the new law since it was too close to a park and a school bus stop.

1 That property is now a rental with a loss of \$800.00 a month. He does not understand or know if
2 he will lose access to the internet which could also have a profound impact on his ability to
3 remain competitive in his business.
4

5 76. Plaintiff Doe C, a resident of Las Vegas, Clark County, Nevada was convicted of
6 two counts of Lewdness with a Child Under the Age of 14. At sentencing, the court ordered a
7 suspended sentence of 24 to 62 months on all counts to run concurrent to each other and placed
8 Doe C on probation not to exceed five years. Doe C was placed on a rigorous probation and the
9 court further sentenced Doe C to Lifetime Supervision after being released from probation. Doe
10 C is now worried that the change in law will place the residence and movement restrictions on
11 him as he was a Tier I offender prior to the law change. Doe C knew that he was subject to
12 Lifetime supervision and registration, but after being reclassified to Tier III under the new law,
13 he will never be able to petition to be removed from the obligation of registration, will be subject
14 to neighborhood and website community notification, and will also be subject to the movement
15 and residency restrictions contained in SB 471. Doe C is extremely confused with the
16 application of the new law and does not understand how the state can change what he agreed to
17 in his Guilty Plea Agreement.
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20 77. Plaintiff Doe D is a resident of Henderson and Clark County, Nevada. He
21 accepted a plea agreement in 2005, pleading guilty to three counts of Attempted Lewdness With
22 a Child Under 14 Years of Age. At sentencing, the court ordered a suspended sentence of 12 to
23 60 months on all counts to run concurrent to each other and placed Doe D on probation not to
24 exceed three years. Doe D was placed on the rigorous conditions of NRS 176A.410 (required
25 terms and conditions of sex offenders) and further sentenced Doe D to Lifetime Supervision after
26 being released from probation. On November 29, 2007, Doe D was honorably discharged from
27
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1 probation after having satisfactorily completed all of the conditions of probation. Doe D was
2 classified as a Tier I offender but will be reclassified as a Tier III offender under the new law.
3 Doe D knew that he was subject to Lifetime supervision and registration, but after being
4 reclassified to Tier III under the new law, he will never be able to petition to be removed from
5 the obligation of registration, will be subject to neighborhood and website community
6 notification, and will also be subject to the movement and residency restrictions contained in SB
7 471. Doe D is emotionally distraught and depressed with the enactment of the new law. He
8 currently lives near a grammar school and park which he believes is within 1000 feet and thus
9 will be forced to move. His sister, who lives with Doe D, has just had a baby. Neither can
10 afford to move out. Doe D is extremely confused with the application of the new law and does
11 not understand how the state can change what he agreed to in his Guilty Plea Agreement.
12

13
14 78. Plaintiff Doe E is a resident of Las Vegas and Clark County, Nevada. He
15 accepted a plea agreement in 2002, pleading guilty to Attempted Lewdness With a Child Under
16 the Age of 14 and two counts of Statutory Sexual Seduction. The court sentenced Doe E to 48 -
17 120 months for count 1 and 12-30 months on counts 2 and 3 to run concurrent with count 1. Doe
18 E was also sentenced to Lifetime Supervision to commence after his release from parole or
19 imprisonment. On January 9, 2008, Doe was honorably discharged from parole after
20 successfully completing all requirements. The new law will change Doe E from a Tier II to a
21 Tier III. The new law will require him to take a day off from work every 90 days to register in
22 person and will likely result in his termination. Also, Doe E will now also be subject to the
23 movement and residence restrictions. This makes him nervous because he lives near two school
24 bus stops and he originally moved into an adult only section apartment but new management has
25 changed that and now there are numerous children in his neighborhood. The new laws have
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1 caused Doe E extreme anxiety, inability to sleep and it causes him to cry uncontrollably for 2-3
2 hours at a time without reason. He also has a heightened sense of paranoia and sensitivity.

3 79. Plaintiff Doe F is a resident of Las Vegas and Clark County, Nevada. He pled
4 guilty in 1983 pursuant to a Guilty Plea Agreement in Michigan to Attempted Criminal Sexual
5 Conduct 2nd, and was sentenced. After moving to Las Vegas, Doe F was classified as a Tier I
6 offender. He was only required to register by mail once a year. He has recently been told that
7 he will be changed to a Tier III offender. The change in law will require him to take time off
8 work every 90 days to register in person. Doe F is 59 years and cannot afford to lose his job. It
9 is likely that he will lose his job if it is notified that he is a sex offender, which will occur with
10 the new community registration laws and website community notification to which he will be
11 subject. Doe F is in very bad emotional health and requires the help of his wife of 13 years and
12 daughter who lives with him. His daughter has a 20 month old child. He has great anxiety over
13 the new law and does not understand its effect on him. He never was on lifetime supervision but
14 now fears that he will arbitrarily be placed on it and will no longer be able to live with his
15 daughter. If he is subject to movement and residency restrictions he will definitely lose his job
16 as he is a limo driver and would no longer be able to go to any location that is 500 feet from
17 schools, parks, day cares, etc. His apartment is close to Cimmaron High School. Doe F also
18 relies heavily on the support of his extended family that live in Michigan and Washington, both
19 of which have children. The travel restrictions in the new law will place a great burden on his
20 entire family.
21
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25 80. Plaintiff Doe G is a resident of Las Vegas and Clark County, Nevada. Doe G was
26 convicted of Attempted Sexual Assault in 1983 in Colorado. In 1986 he was released from
27 supervision and in 1998 he moved to Las Vegas for work. He has been married for 21 years and
28

1 currently lives with his wife and his stepson and stepson's wife and granddaughter. At
2 sentencing, he was never advised of or sentenced to Lifetime Supervision. His only requirement
3 was to register yearly with the central repository. He has recently been notified that he will be
4 changed from Tier I to Tier III and that he will now have to register in person every 90 days.
5 This will require him to take an entire day off work and could cause him to lose his job as an
6 area manager where he currently earns a six figure income. Doe G and his wife are extremely
7 distraught and confused with the new law and have caused them great stress and anxiety. They
8 have even lost sleep and appetite. If Doe G is subject to lifetime supervision, as many do believe
9 will be the case with the enactment of the new law, then Doe G, will be required to sell his home
10 of 11 years, resulting in a huge financial loss to him and his family as he lives within 500 feet of
11 a school and near a bus stop. The community notification requirements could also cause Doe
12 G's stepson to lose custody of his daughter because his stepson is financially unable to move out
13 of Doe G's home.
14
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17 81. Plaintiffs Doe H through S, are all similarly situated as above mentioned Does A-
18 G in that they are residents of Clark County, Nevada, have prior sex offender convictions and
19 have been notified that their Tier I or Tier II sex offender status will be changed to either a Tier
20 II or Tier III status. These Doe's will all suffer harm in the same manner and effect as Does A-
21 G, such as: loss of employment, community backlash, and being forced to move from their
22 homes, if the new registration, community notification, and movement/residency restriction laws
23 are placed into effect.
24

25 ///

26 ///

27 ///

V. FIRST CAUSE OF ACTION
Violation of the Fourteenth Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Due Process)

82. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

83. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6 and Does B, C, E, F, G against Defendants Roger and Gillespie, by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and Henderson Law Enforcement

84. The New Sex Offender Laws are vague and ambiguous and fail to sufficiently define who is subject to the laws, what their effects are, and what the penalties for failure to comply with them are, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

85. The New Sex Offender Laws also violate the Due Process Clause because they reassess offenders and subject them to new restrictions and requirements, regardless of any actual risk to society and without the possibility of any hearing and without any requirement by the State of Nevada to provide offenders with any notice of their classification or any new prohibitions or requirements.

86. Further, the New Sex Offender Laws violate the Due Process Clause of the U.S. Constitution because they fail to rationally further any legitimate governmental purpose.

1 87. Finally, the New Sex Offender Laws violate the Due Process Clause of the U.S.
2 Constitution because they vary the terms contained in the plea agreements of Does 1-5 and Does
3 A-G.
4

5 88. Each of the Plaintiffs has been, or imminently will be, injured by these
6 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief..
7

8
9 **VI. SECOND CAUSE OF ACTION**
10 **Violation of the First Amendment to the**
11 **United States Constitution under 42 U.S.C. § 1983**
12 **(Free Exercise of Religion)**

13 89. Plaintiffs incorporate by reference each and every allegation contained in the
14 preceding paragraphs as set forth fully herein.

15 90. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against
16 all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement
17 Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,
18 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
19 Henderson Law Enforcement.

20 91. Because churches and other places of worship fall within the places certain sex
21 offenders may not “knowingly be” within 500 feet of under SB471 regardless of the actual
22 known risk offenders, SB471 improperly interferes with offenders’ right to practice religion
23 without undue governmental interference.
24

25 92. The Plaintiffs have been, or imminently will be, injured by these constitutional
26 violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
27
28

VII. THIRD CAUSE OF ACTION
Violation of the Fourteenth Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Substantive Due Process)

93. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

94. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie, by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and Henderson Law Enforcement.

95. By impacting on the Does' ability to travel throughout Nevada, attend church or other religious services, go to Court or attorney offices, parent their children, and live with their families, the New Sex Offender Laws impinge on their fundamental rights to free association, travel, and to raise their children without undue governmental interference.

96. Each of the Plaintiffs has been, or imminently will be, injured by these constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.

VIII. FOURTH CAUSE OF ACTION
Violation of the Fourteenth Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Equal Protection)

97. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

98. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,

1 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
 2 Henderson Law Enforcement.

3 99. These laws are irrational, and designed only to burden an unpopular group. New
 4 Sex Offender Laws thus violate the Equal Protection Clause of the U.S. Constitution.
 5

6 100. Each of the Plaintiffs has been, or imminently will be, injured by these
 7 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
 8

9
 10 **IX. FIFTH CAUSE OF ACTION**
 11 **Violation of Eighth Amendment to the U.S. Constitution**
 12 **United States Constitution under 42 U.S.C. § 1983**
 13 **(Cruel and Unusual Punishment)**

14 101. Plaintiffs incorporate by reference each and every allegation contained in the
 15 preceding paragraphs as set forth fully herein.

16 102. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against
 17 all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement
 18 Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,
 19 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
 20 Henderson Law Enforcement.

21 103. AB579 and SB471 impose extensive punishments, both on persons previously
 22 convicted of sexual offenses and prospectively, that are excessive in relation to the crimes
 23 offenders are convicted of. For example, anyone convicted of any crime with any "sexual
 24 element" or any crime that is "sexually motivated" since July 1, 1956 is considered a sex
 25 offender under the New Sex Offender Laws and is subject to community notification and
 26 registration requirements.
 27
 28

104. All new Tier III offenders, including the Plaintiffs, will now be subject to both extensive duties and extensive restrictions.

105. Similarly, Doe 1, for example, pled guilty to inappropriately touching a student – which he did on one occasion, for moments, and over the clothes – in 1986, over thirty years ago. He was never sentenced to time in prison, and successfully finished probation and the other terms of his plea agreement. The State of Nevada has evaluated Doe 1 and has determined that he is not a risk. Now, years later, he is being classified a Tier III offender, the highest risk offender. As such, he must register every 90-days and is subject to community notification (not only will his picture, name, address and other information be posted on the website, but his neighbors will be notified), and he may have to leave the house he shares with his wife.

106. Community notification can subject offenders to violence at the hands of vigilantes. Human Rights Watch, in a comprehensive 2007 study of sex offender laws (laws that were far less extreme than the New Sex Offender Laws about to be implemented in Nevada) and their effects and utility, found that public safety was not furthered by expansive notification and restriction provisions, but offenders were subjected to vigilantism:

Information provided by state online sex offender registries, as well as information provided during community notification by law enforcement, is not just used by private citizens to determine what streets their children can walk on, or whom to avoid. **Neighbors as well as strangers harass, intimidate and physically assault people who have committed sex offenses. At least four registered sex offenders have been killed.**

p. 89, No Easy Answers: Sex Offender Laws in the United States,” Human Rights Watch, available at <http://www.hrw.org/reports/2007/us0907/us0907web.pdf>. Each of the Plaintiffs has been, or imminently will be, injured by Eighth Amendment violations, and the Plaintiffs are entitled to declaratory and injunctive relief.

X. SIXTH CAUSE OF ACTION
Violation of the Article 1, § 9 of the
United States Constitution under 42 U.S.C. § 1983
(Ex Post Facto)

107. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

108. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie, by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and Henderson Law Enforcement.

109. The effect and intent of AB579 and SB471 are both punitive, and the New Sex Offender Laws impose new punishments on Plaintiffs, including but not limited to the affirmative disability of having to register in person every 90 days, banishment from their families and communities, on offenders convicted before their enactment.

110. Each of the Plaintiffs has been, or imminently will be, injured by these constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.

XI. SEVENTH CAUSE OF ACTION
Violation of the Fifth Amendment to the
United States Constitution under 42 U.S.C. § 1983
(Double Jeopardy)

111. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as set forth fully herein.

112. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,

1 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
2 Henderson Law Enforcement.

3 113. The New Sex Offender Laws impose new punishments on persons previously
4 convicted, and impose registration duties, community notification, and movement and residence
5 restrictions based on the crime originally committed, rather than any actual risk of recidivism, in
6 violation of the Double Jeopardy Clause of the U.S. Constitution.

7
8 114. Each of the Plaintiffs has been, or imminently will be, injured by these
9 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
10

11 **XII. EIGHTH CAUSE OF ACTION**
12 **Violation of Article 1, section 10 to the**
13 **United States Constitution under 42 U.S.C. § 1983**
14 **(Contracts Clause)**

15 117. Plaintiffs incorporate by reference each and every allegation contained in the
16 preceding paragraphs as set forth fully herein.

17 118. Pursuant to 42 U.S.C. Section 1983, this claim is brought by all Plaintiffs against
18 all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement
19 Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,
20 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
21 Henderson Law Enforcement.
22

23 119. The New Sex Offender Laws operate as a substantial impairment to the pre-
24 existing contractual relationship between the state and Plaintiff's Guilty Plea Agreements by
25 imposing new terms not negotiated which drastically increase, and, or require lifetime
26 supervision, registration and community notification.
27
28

1 120. Each of the Plaintiffs has been, or imminently will be, injured by these
2 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
3

4 **XIII. NINTH CAUSE OF ACTION**
5 **Violation of the Article I, Section 15 to the**
6 **Nevada Constitution**
7 **(State Contract Clause)**

8 115. Plaintiffs incorporate by reference each and every allegation contained in the
9 preceding paragraphs as set forth fully herein.

10 116. This claim is brought by all Plaintiffs against all State Defendants, by Does 3 and
11 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B,
12 C, E, F, G against Defendants Roger and Gillespie, by Doe 4 against Defendants Roger and
13 Forti, and Doe D against Defendants Roger and Henderson Law Enforcement.

14 117. For the same reasons that the New Sex Offender Laws violate the contacts clause
15 of the U.S. Constitution, they violate the contracts clause of the Nevada Constitution.
16

17 **XIV. TENTH CAUSE OF ACTION**
18 **Violation of the Fifth Amendment to the**
19 **United States Constitution under 42 U.S.C. § 1983**
20 **(Takings Clause)**

21 121. Plaintiffs incorporate by reference each and every allegation contained in the
22 preceding paragraphs as set forth fully herein

23 122. Pursuant to 42 U.S.C. Section 1983, This claim is brought by all Plaintiffs against
24 all State Defendants, by Does 3 and 5, and Doe A against the Reno Law Enforcement
25 Defendants, by Does 1, 2 and 6, and Does B, C, E, F, G against Defendants Roger and Gillespie,
26 by Doe 4 against Defendants Roger and Forti, and Doe D against Defendants Roger and
27 Henderson Law Enforcement.
28

1 **123.** The New Sex Offender Laws, by placing residential and movement restrictions on
2 Plaintiffs, unconstitutionally restricts Plaintiff's property rights to the point that it constitutes a
3 regulatory taking requiring just compensation.
4

5 **124.** Each of the Plaintiffs has been, or imminently will be, injured by these
6 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
7

8
9 **XV. ELEVENTH CAUSE OF ACTION**
10 **Violation of Article III, Section I of the**
11 **Nevada Constitution**
12 **(Separation of Powers)**

13 **125.** Plaintiffs incorporate by reference each and every allegation contained in the
14 preceding paragraphs as set forth fully herein.

15 **126.** This claim is brought by all Plaintiffs against all State Defendants, by Does 3 and
16 5, and Doe A against the Reno Law Enforcement Defendants, by Does 1, 2 and 6, and Does B,
17 C, E, F, G against Defendants Roger and Gillespie, by Doe 4 against Defendants Roger and
18 Forti, and Doe D against Defendants Roger and Henderson Law Enforcement.

19 **127.** The New Sex Offender Laws violates the States Separation of Powers doctrine as
20 it limits the judicial power of sentence finality as the law vacates existing court judgments
21 regarding sex offenders' classifications, and community notification and reverse final court
22 judgments setting the length of time that sex offenders must register.
23

24 **128.** Each of the Plaintiffs has been, or imminently will be, injured by these
25 constitutional violations, and the Plaintiffs are entitled to declaratory and injunctive relief.
26
27
28

XVI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request this Honorable Court for the following:

a. A declaration that AB579 and SB471 violate, both facially and as applied by the Defendants, the due process clause of the U.S. Constitution (U.S. CONST., Amend, XIV);

b. A declaration that AB579 and SB471 violate, both facially and as applied by the Defendants, the due process clause of the Nevada Constitution (NEV. CONST., Art. 1, § 8, cl. 5);

c. A declaration that SB471 violates, both facially and as applied by the Defendants, the First Amendment to the United States Constitution (U.S. CONST., Amend, I);

d. A declaration that SB471 violates, both facially and as applied by the Defendants, the right to practice religion without governmental inference protected by the Nevada Constitution (NEV. CONST., Art. 1, § 4, cl. 5);

e. A declaration that AB579 and B471 violate, both facially and as applied by the Defendants, the equal protection clause of the United States Constitution (U.S. CONST., Amend, IV);

f. A declaration that AB579 and SB471 violate, both facially and as applied by the Defendants, the right to equal protection guaranteed by the Nevada Constitution (NEV. CONST., Art. 1, § 1);

g. A declaration that AB579 and SB471 violate, both facially and as applied by the Defendants, the prohibition against cruel and unusual punishment contained in the United States Constitution (U.S. CONST., Amend, VIII);

h. A declaration that AB579 and SB471 violate, both facially and as applied by the Defendants, the prohibition against cruel and unusual punishment contained in the Nevada Constitution (NEV. CONST., Art. 1, § 8, cl. 5);

1 i. A declaration that AB579 and SB471 violate, both facially and as applied by the
2 Defendants, the ex post facto clause of the United States Constitution (U.S. CONST., Art. 1, §9,
3 cl.10);

4 j. A declaration that AB579 and SB471 violate, both facially and as applied by the
5 Defendants, the ex post facto clause of the Nevada Constitution (NEV. CONST., Art. 1, §15);

6 k. A declaration that AB579 and SB471 violate, both facially and as applied by the
7 Defendants, the double jeopardy clause of the United States Constitution (U.S. CONST., Am. V,
8 Am. XIV);

9 l. A declaration that AB579 and SB471 violate, both facially and as applied by the
10 Defendants, the double jeopardy facto clause of the Nevada Constitution (NEV. CONST., Art. 1,
11 §8, cl. 1);

12 m. A declaration that AB579 and SB471 violate, both facially and as applied by the
13 Defendants, the contracts clause of the United States Constitution (U.S. CONST., Art. 1, § 10);

14 n. A declaration that AB579 and SB471 violate, both facially and as applied by the
15 Defendants, the contracts clause of the Nevada Constitution (NEV. CONST., Art. 1, § 15);

16 o. A declaration that AB579 and SB471 violates, both facially and as applied by the
17 Defendants, the takings clause of the United States Constitution (U.S. CONST., Amend. V);

18 p. A declaration that AB579 and SB471 violate, both facially and as applied by the
19 Defendants, the takings clause of the Nevada Constitution (NEV. CONST., Art. 1, § 9, cl. 6);

20 q. A declaration that AB579 and B471 violate, both facially and as applied by the
21 Defendants, the separation of powers doctrine of the Nevada Constitution (NEV. CONST., Art. 3,
22 § 1, cl. 1);

1 i. A declaration that AB579 and SB471 violate, both facially and as applied by the
2 Defendants, the ex post facto clause of the United States Constitution (U.S. CONST., Art. 1, §9,
3 cl.10);
4

5 j. A declaration that AB579 and SB471 violate, both facially and as applied by the
6 Defendants, the ex post facto clause of the Nevada Constitution (NEV. CONST., Art. 1, §15);
7

8 k. A declaration that AB579 and SB471 violate, both facially and as applied by the
9 Defendants, the double jeopardy clause of the United States Constitution (U.S. CONST., Am. V,
10 Am. XIV);
11

12 l. A declaration that AB579 and SB471 violate, both facially and as applied by the
13 Defendants, the double jeopardy factio clause of the Nevada Constitution (NEV. CONST., Art. 1,
14 §8, cl. 1);
15

16 m. A declaration that AB579 and SB471 violate, both facially and as applied by the
17 Defendants, the contracts clause of the United States Constitution (U.S. CONST., Art. 1, § 10);
18

19 n. A declaration that AB579 and SB471 violate, both facially and as applied by the
20 Defendants, the contracts clause of the Nevada Constitution (NEV. CONST., Art. 1, § 15);
21

22 o. A declaration that AB579 and SB471 violates, both facially and as applied by the
23 Defendants, the takings clause of the United States Constitution (U.S. CONST., Amend. V);
24

25 p. A declaration that AB579 and SB471 violate, both facially and as applied by the
26 Defendants, the takings clause of the Nevada Constitution (NEV. CONST., Art. 1, § 9, cl. 6);
27

28 q. A declaration that AB579 and B471 violate, both facially and as applied by the
Defendants, the separation of powers doctrine of the Nevada Constitution (NEV. CONST., Art. 3,
§ 1, cl. 1);

1 r. A permanent injunction prohibiting each defendant from enforcing AB579 and
2 SB471;

3 s. Reasonable costs and attorneys fees; and

4 t. Any further relief the Court deems appropriate.
5
6

7 **XVII. DEMAND FOR JURY TRIAL**

8 Plaintiffs demand a trial by jury on all causes of action.
9
10
11

12 DATED: July 7, 2008

ACLU of NEVADA, Attorneys for Does 1-5

13 By: /s/
14 Margaret A. McLetchie

15 DATED: July 7, 2008

ROBERT L. LANGFORD & ASSOCIATES,
Attorneys for Does A-G

17 By: /s/
18 Robert L. Langford
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