

**THE ONE HUNDRED AND EIGHTH DAY**

---

CARSON CITY (Wednesday), May 22, 2019

Assembly called to order at 12:43 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Hambrick, who was excused, and one vacant.

Prayer by the Chaplain, Reverend Tony Brandon.

Lord of all, we pray that You give the blessings of foresight, compassion, and patience to the women and men of our legislative body. May they be united in working for the good of our state, and may they remember the unsurpassable worth and value of every human being as they make their decisions today.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

## REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 86, 197, 407, 432, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN B. SPIEGEL, *Chair*

*Mr. Speaker:*

Your Committee on Education, to which was referred Senate Bill No. 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which were referred Senate Bills Nos. 267, 320, 350, 403, 441, 453, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

EDGAR FLORES, *Chair*

*Mr. Speaker:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 166, 175, 224, 243, 279, 302, 461, 463, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

EDGAR FLORES, *Chair*

*Mr. Speaker:*

Your Committee on Growth and Infrastructure, to which were referred Senate Bills Nos. 300, 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DANIELE MONROE-MORENO, *Chair*

*Mr. Speaker:*

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 203, 364, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

LESLEY E. COHEN, *Chair*

*Mr. Speaker:*

Your Committee on Judiciary, to which were referred Senate Bills Nos. 7, 8, 221, 342, 368, 431, 435, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 151, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 328, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

STEVE YEAGER, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 129, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SANDRA JAUREGUI, *Chair*

*Mr. Speaker:*

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 250, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HEIDI SWANK, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 502, 507; Senate Bill No. 520, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 509, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2019

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 21, 37, 79, 83, 86, 88, 102, 107, 120, 183, 186, 192, 220, 240, 248, 258, 270, 272, 274; Senate Bills Nos. 29, 506.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 126, Amendment No. 719; Assembly Bill No. 174, Amendment No. 760; Assembly Bill No. 239, Amendment No. 685; Assembly Bill No. 261, Amendment No. 708, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 204, 521, 522.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 8.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendments Nos. 688, 725 to Senate Bill No. 178.

SHERRY RODRIGUEZ  
*Assistant Secretary of the Senate*

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 8.

Assemblyman Yeager moved the adoption of the resolution.

ASSEMBLYMAN YEAGER:

Senate Concurrent Resolution 8 relates to our former Supreme Court Justice and Nevada Attorney General Charles Springer. His family was on the floor with us here yesterday. I urge its adoption.

Motion carried.

Resolution adopted and ordered transmitted to the Senate.

Assemblywoman Benitez-Thompson moved that the Assembly suspend Assembly Standing Rule 52.5 and subsection 4 of Assembly Standing Rule 57 for the remainder of the session.

Motion carried.

Assemblywoman Benitez-Thompson moved that all bills reported out of committee be immediately placed at the bottom of the Second Reading File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bills Nos. 113, 140, 150, 164, 172, 181, 219, 341, 356, and 387 be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bill No. 73 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:55 p.m.

ASSEMBLY IN SESSION

At 12:58 p.m.

Mr. Speaker presiding.

Quorum present.

By the Committee on Commerce and Labor:

Assembly Joint Resolution No. 10—Proposing to amend the Nevada Constitution to prospectively increase the required minimum wage paid to employees.

Assemblywoman Benitez-Thompson moved that the resolution be referred to the Committee on Commerce and Labor.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Government Affairs:

Assembly Bill No. 539—AN ACT relating to counties; authorizing a board of county commissioners to create by ordinance the office of county counsel; providing for the appointment of a county counsel; establishing the qualifications of a county counsel; authorizing a county counsel to appoint deputies and certain other staff; setting forth the powers and duties of a county counsel; revising the responsibilities of the district attorney when the office of county counsel is created; and providing other matters properly relating thereto.

Assemblyman Flores moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 29.

Assemblyman Yeager moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 204.

Assemblyman Flores moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 506.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 521.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 522.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 236.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 723.

AN ACT relating to crimes; revising provisions relating to preprosecution diversion programs; **creating the Office of the Nevada Sentencing Commission within the Office of the Governor**; establishing provisions relating to the duties of the Nevada Sentencing Commission; establishing provisions relating to the calculation and use of the amount of certain costs avoided by this State; establishing the Nevada Local Justice Reinvestment Coordinating Council; revising the contents required in the report of any presentence investigation; requiring certain judges to receive training concerning reports of presentence investigations; making various changes concerning probation and parole; authorizing a court to defer or suspend judgment on a case in certain circumstances; revising provisions relating to specialty court programs; ~~establishing~~ **revising** provisions relating to ~~batterers' intervention~~ **programs ~~for~~ for the treatment of persons who commit domestic violence**; reducing the penalty for certain crimes from a category B to a category C felony; revising provisions relating to ~~the crimes of~~ burglary ; ~~invasion of the home and housebreaking~~; increasing the felony theft threshold and revising penalties for various theft offenses; **making it unlawful to install or affix a scanning device within or upon a machine used for financial transactions under certain circumstances; making it unlawful to access a scanning device under certain circumstances**; revising provisions relating to habitual criminals; requiring the Peace Officers' Standards and Training Commission to develop and implement a ~~mental~~ **behavioral** health field response grant program; revising provisions concerning crimes involving controlled substances; repealing provisions relating to programs of treatment for alcoholics and drug addicts and the civil commitment of such persons; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a justice court or municipal court to establish a preprosecution diversion program to which it may assign eligible defendants charged with certain misdemeanors. (NRS 174.031, 174.032) **Section 3** of this bill authorizes a district court to establish such a program, and **section 2** of this bill authorizes eligible defendants charged with certain **gross misdemeanors or felonies** to participate in such a program.

Existing law establishes programs for the treatment of mental illness and intellectual disabilities and for the treatment of veterans and members of the military to which a court may assign certain persons. (NRS 176A.250-176A.265, 176A.280-176A.295) Existing law also establishes a program of treatment for alcoholics and drug addicts to which a court may assign certain persons and provides for the civil commitment of alcoholics and drug addicts convicted of a crime. (NRS 453.580, 458.290-458.350) ~~Sections~~ **Section 27 ~~and 29~~** of this bill ~~revises~~ **revises** provisions relating to the eligibility of a defendant to participate in a program for the treatment of mental illness and intellectual disabilities ~~for~~ , **and sections 29 and 29.5 of this bill revise**

provisions relating to the eligibility of a defendant to participate in a program for the treatment of veterans and members of the military. ~~and~~ ~~respectively.~~ **Section 136** of this bill repeals the provisions of law concerning the program of treatment for alcoholics and drug addicts and the civil commitment of such persons. **Sections 20-23** of this bill set forth provisions relating to the establishment of a program for the treatment of drug or alcohol ~~abuse~~ **use** to which a court may assign certain persons, which are modeled after the provisions of law governing the programs for the treatment of mental illness and intellectual disabilities and for the treatment of veterans and members of the military.

Existing law generally provides that if a person is found guilty of a category E felony, the district court is required to suspend the execution of the sentence imposed and grant probation to the person. However, the court is also authorized to decide not to grant probation if the person: (1) was serving a term of probation or was on parole for a felony conviction at the time the crime was committed; (2) previously had his or her probation or parole revoked for a felony conviction; or (3) previously had been assigned to a program of treatment and rehabilitation for the abuse of alcohol or drugs and failed to complete the program. (NRS 176A.100) **Section 24** of this bill removes such exceptions to mandatory probation.

Existing law provides that the period of probation or suspension of sentence must not be more than 3 years for a gross misdemeanor or a suspension of sentence imposed pursuant to certain provisions of law and not more than 5 years for a felony. (NRS 176A.500) **Section 34** of this bill revises such time limitations and provides that the period of probation or suspension of sentence must not be more than: (1) twelve months for a gross misdemeanor or certain suspensions of sentence; (2) eighteen months for a category E felony; (3) twenty-four months for a category C or D felony; or (4) thirty-six months for a category B felony. **Section 34** authorizes the court to extend the period of probation for a period of not more than 12 months if the extension is necessary for the probationer to complete his or her participation in a specialty court program. **Section 17** of this bill requires the Division of Parole and Probation of the Department of Public Safety (“Division”) to petition the court to recommend the early discharge of certain persons on probation.

**Section 35** of this bill provides that if the court finds that a probationer committed one or more technical violations of the conditions of probation, the court may take certain actions, including temporarily revoking the probation or suspension of sentence and imposing certain terms of imprisonment depending on how many times the probation or suspension of sentence has previously been temporarily revoked. **Section 35** also provides that a probationer who is arrested and detained for a technical violation of probation must have a hearing within 15 calendar days or otherwise must be released from detention and returned to probation status. If such a probationer is released from detention because a timely hearing is not held, the court is authorized to subsequently hold a hearing to determine whether a technical

violation occurred and take appropriate action. **Section 35** further prohibits the commission of certain acts from being used as the only basis for the revocation of probation. **Section 101** of this bill provides that if the State Board of Parole Commissioners ("Board") finds that a parolee committed one or more technical violations of the conditions of parole, the Board may take certain actions, including temporarily revoking parole supervisions and imposing certain terms of imprisonment depending on how many times parole has previously been temporarily revoked. **Section 18** of this bill requires the Division to adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation or parole and establishes certain requirements relating to such a system.

**Section 19** authorizes a court to defer judgment to a specified future date and set forth specific terms and conditions for the defendant in certain circumstances. If the court finds that the defendant has completed all such conditions, the court is required to discharge the defendant and dismiss the proceedings.

Existing law requires the report of any presentence investigation to contain certain information, including: (1) a recommendation of a minimum term and a maximum term of imprisonment, other term of imprisonment, a fine, or both a fine and term of imprisonment; and (2) if the Division deems appropriate, a recommendation that the defendant undergo a program of regimental discipline. (NRS 176.145) **Section 13** of this bill removes the requirement that the report of any presentence investigation contain such recommendations. ~~[Section 13 also establishes requirements relating to any risk and needs assessment used during a presentence investigation.]~~ **Section 12** of this bill requires each court in which a report of a presentence investigation can be made to ensure that each judge of the court receives training concerning the manner in which to use the information included in such a report for the purpose of imposing a sentence.

Existing law establishes the ~~[crimes]~~ **crime** of burglary ~~-, invasion of the home and housebreaking.]~~ (NRS 205.060) ~~[, 205.067, 205.0813)]~~ **Section 55** of this bill establishes: (1) certain types of burglary that differ based on the structure in which the crime is committed; and (2) the various penalties imposed for each type of burglary. ~~[Section 56 of this bill revises the definition of the crime of invasion of the home and increases the minimum and maximum terms of imprisonment that may be imposed. Section 57 of this bill decreases the penalties for housebreaking.]~~ **Existing law authorizes a person to petition the court in which the person was convicted for the sealing of all records relating to the conviction, but excludes certain specified convictions. (NRS 179.245) Section 37 of this bill prohibits a person from petitioning the court to seal records relating to a conviction of invasion of the home with a deadly weapon.**

Existing law provides that a person who commits theft is guilty of: (1) a misdemeanor if the value of the property or services involved in the theft is

less than \$650; and (2) a category C felony if the value of the property or services involved in the theft is \$650 or more. (NRS 205.0835) **Section 58** of this bill increases the felony theft threshold to ~~1,000~~ **\$1,200** and establishes a tier of penalties based on the value of the property or services involved in the theft. **Sections 59, 60, 61-64, 65-83, 85, 126, 131 and 132** of this bill make conforming changes to various theft offenses that use monetary thresholds.

**Existing law makes it a crime for a person to use a scanning device to access, read, obtain, memorize or store information encoded on the magnetic strip of a payment card: (1) without the permission of the authorized user of the card; and (2) with the intent to defraud the user or issuer of the card or any other person. (NRS 205.605) Existing law also makes it a crime for a person to possess a scanning device with the intent to use it for an unlawful purpose. (NRS 205.606) Section 84.3 of this bill makes it a crime for a person to install or affix a scanning device within or upon a machine used for financial transactions with the intent to use the scanning device for an unlawful purpose. Section 84.3 also makes it a crime for a person to access, by electronic or any other means, a scanning device with the intent to use the scanning device for an unlawful purpose. Section 84.3 provides that a person who installs, affixes or accesses a scanning device in such an unlawful manner is guilty of a category C felony.**

**Existing law exempts certain persons from the provisions governing the unlawful use or possession of scanning devices. Existing law provides that a person is exempt from these provisions if he or she uses or possesses a scanning device without the intent to defraud or commit an unlawful act: (1) in the ordinary course of his or her business; or (2) with the consent of the authorized user of a payment card to complete a financial transaction using that card. (NRS 205.607) Section 84.5 of this bill expands this exemption to include a person who installs, affixes or accesses a scanning device without the intent to commit an unlawful act: (1) in the ordinary course of his or her business; or (2) to complete such a financial transaction.**

Existing law provides that a person who offers, attempts or commits certain unauthorized acts relating to controlled or counterfeit substances is guilty of a category B felony for the first offense if the controlled substance is classified in schedule I or II and a category C felony for the first offense if the controlled substance is classified in schedule III, IV or V. (NRS 453.321) **Section 112** of this bill decreases such penalties to a category C and category D felony, respectively. **Section 112** also decreases the minimum and maximum terms of imprisonment and the amount of the authorized fine for a third or subsequent offense if the controlled substance is classified in schedule III, IV or V. Existing law prohibits a court from granting probation to a person who is convicted of a second or subsequent offense of certain commercial drug offenses. (NRS 453.321, 453.337, 453.338) **Sections 112, 116 and 117** of this



bill **generally** authorize a court to grant probation if mitigating circumstances exist that warrant the granting of probation.

Existing law prohibits the trafficking of: (1) schedule I controlled substances other than marijuana; (2) marijuana or concentrated cannabis; and (3) schedule II controlled substances. The penalties for each such offense vary based on the quantity of the controlled substance that is trafficked. (NRS 453.3385, 453.339, 453.3395) ~~Section 118 of this bill: (1) provides that if a person is charged with selling or manufacturing a controlled substance, evidence must be introduced to show that the person had the intent to sell or manufacture the controlled substance; and (2) establishes the circumstances that can be used to show that a person has the intent to sell or manufacture a controlled substance.~~ **Sections 119 and 121** of this bill revise the quantity of schedule I controlled substances other than marijuana and schedule II controlled substances, respectively, for the purposes of ~~determining the applicable~~ **imposing a** penalty. **Section 122** of this bill provides that **the court may grant probation to or suspend the sentence of** certain persons who are convicted of trafficking a controlled substance. ~~are not eligible for parole until the mandatory minimum term of imprisonment is served.~~

**Existing law provides that it is unlawful for a person to knowingly use or be under the influence of a controlled substance except in accordance with a lawfully used prescription or when administered to the person at certain rehabilitation clinics or hospitals. A person who violates any such provision is guilty of a gross misdemeanor or category E felony depending on the schedule in which the controlled substance is listed. (NRS 453.411) Section 122.5 of this bill decreases the penalty for such a violation to a misdemeanor, regardless of the schedule in which the controlled substance is listed.**

**Section 113** of this bill revises the penalties for simple possession of a controlled substance ~~and provides that a person is guilty of a misdemeanor for the first or second offense and a category E felony for a third or subsequent offense, regardless of~~ **based on the quantity possessed and** the schedule in which the controlled substance is listed. ~~Section 24 requires a court to grant probation to a person who commits a third or subsequent offense.~~ **Section 86** of this bill prohibits a conviction of simple possession **or unlawful use** of a controlled substance from being used for purposes of determining whether a person is a habitual criminal.

Existing law establishes various crimes for which the penalty is a category B felony. (NRS ~~202.360,~~ 205.605, 453.316, 465.088, 484D.335) **Sections ~~53,~~ 84, 111, 125 and 130** of this bill reduce the penalty for any such crime to a category C felony.

Existing law provides that a person is a habitual criminal if he or she is convicted of a felony and has previously been convicted at least two times of a felony. (NRS 207.010) **Section 86** provides that ~~a previous conviction must not be considered a conviction for purposes of determining whether~~ a person is a habitual criminal if ~~it, depending on the type,~~ **he or she is convicted of a**

felony ~~[conviction, a certain number of years elapsed between the date of release from actual custody or discharge from parole or probation, whichever occurred later, and the date of the commission of the current offense.]~~ **and has previously been convicted at least five times of a felony.**

**Section 90** of this bill requires the Director of the Department of Corrections (“Director”) to administer a risk and needs assessment to each person in the custody of the Department of Corrections (“Department”) to measure criminal risk factors and individual needs for the purpose of institutional programming and placement. **Sections 89 and 96** of this bill require the Director and the Chief Parole and Probation Officer, respectively, to include certain topics and courses in staff training.

**Section 95** of this bill requires the Division to administer a risk and needs assessment to each probationer and parolee under the Division’s supervision at least once every year for the purpose of setting a level of supervision for each probationer and parolee and developing individualized case plans. **Section 95** also requires the Division to administer a subsequent risk and needs assessment to each probationer and parolee at least once every year to determine whether a change in the level of supervision is necessary.

Existing law authorizes the Director to assign an offender to the Division to serve a term of residential confinement or other appropriate supervision for not longer than the remainder of his or her sentence in certain circumstances, including if the offender is in ill health and expected to die within 12 months and does not pose a threat to public safety. (NRS 209.3925) **Section 91** of this bill increases the time within which such an offender is expected to die to ~~124~~ **18** months. **Section 91** also establishes requirements relating to a request for medical release that must be submitted to the Director. **Section ~~93~~ 93.3** of this bill authorizes the Board to grant geriatric parole to certain persons who: (1) ~~are 60 years of age or older and have served 10 years of their minimum term or minimum aggregate term of imprisonment; or (2)~~ **are 65 years of age or older ; (2) have not been convicted of a crime of violence, certain offenses committed against a child, a sexual offense, vehicular homicide or driving under the influence of alcohol or a prohibited substance and causing the death of or substantial bodily harm to another person;** and (3) ~~have served 7 8 consecutive years [of their minimum term or minimum aggregate term of imprisonment.]~~ **in the custody of the Department or at least a majority of the maximum term or maximum aggregate term of his or her sentence, whichever occurs earlier.**

**Section 93.7 of this bill requires the Division to recommend the early discharge of a person from parole to the Board in certain circumstances and authorizes the Board to adopt any regulations necessary to carry out provisions relating to the early discharge of such a person.**

**Section 97** of this bill authorizes the Board to grant parole without a meeting to prisoners who meet certain criteria. **Section 99** of this bill provides that if the Board has delegated its authority to consider the parole of a prisoner and recommend to the Board that the prisoner be released on parole without a

meeting, and a person to whom such authority is delegated does not recommend that the prisoner be released on parole without a meeting, the prisoner must have a parole hearing.

**Section 100** of this bill requires: (1) the Department and a prisoner who is eligible for parole to develop, not later than 6 months before the prisoner's parole eligibility date, a reentry plan that takes into consideration the needs, limitations and capabilities of each prisoner; and (2) the Division to review and, if appropriate, approve such a reentry plan. **Section 92** of this bill revises the duties of the Director relating to the release of offenders from prison by requiring the Director to: (1) provide the offender with a photo identification card if the offender is not in possession of a photo identification card; (2) provide the offender with clothing; (3) provide the offender with certain transportation costs; (4) if appropriate, release the offender to a facility for transitional living; (5) complete enrollment application paperwork for Medicaid and Medicare for an eligible offender; and (6) provide the offender with a 30-day supply of prescribed medication if the offender was receiving such medication while in prison. **Section 92 also requires the Director to clearly indicate on any photo identification card provided to an offender whether or not the Director has verified the full legal name and age of the offender.**

**Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to adopt regulations governing the evaluation, certification and monitoring of programs for the treatment of persons who commit domestic violence. (NRS 439.258) Section 110.5 of this bill provides that such regulations must include provisions requiring that a program: (1) include a module specific to victim safety; and (2) be based on evidence-based practices and the assessment of a program participant by a supervisor of treatment or provider of treatment. Section 102 of this bill revises the definition of the term "victim" for purposes of the provisions of law governing compensation for certain victims of criminal acts. ~~Section 52 of this bill establishes the requirements for a batterers' intervention program to which a court may require a person who is convicted of a battery which constitutes domestic violence to attend in certain circumstances.~~**

**Section 104** of this bill requires the Peace Officers' Standards and Training Commission ("POST") to develop and implement, subject to available funding, a ~~mental~~ **behavioral** health field response grant program to allow law enforcement and ~~mental~~ **behavioral** health professionals to safely respond to crises involving persons with behavioral health issues. **Section 104** establishes the application and selection processes for and certain requirements relating to grant recipients. **Section 104** also requires POST to submit an annual report during each year the grant program is funded to the Governor and the Chairs of the Senate and Assembly Standing Committees on Judiciary that contains information relating to the grant programs. **Section 105** of this bill requires every law enforcement agency to: (1) establish a policy and

procedure for interacting with persons who suffer from a behavioral health issue; and (2) subject to available funding, contract with or employ a behavioral health specialist. **Section 107** of this bill requires POST to develop and approve a standard curriculum of certified training programs in crisis intervention to address specialized responses to persons with mental illness. **Section 108** of this bill requires POST to establish by regulation standards for a voluntary program for the training of law enforcement dispatchers that includes training relating to such crisis intervention.

~~Section 6 of this bill requires~~ **Existing law establishes** the Nevada Sentencing Commission (“Sentencing Commission”), **which is charged with, among other duties, identifying and studying the sentencing of offenders convicted of a crime in this State and making recommendations concerning the adoption of sentencing guidelines. (NRS 176.0131-176.0139)** **Section 5.5 of this bill creates the Office of the Nevada Sentencing Commission within the Office of the Governor and provides for the appointment of an Executive Director of the Office. Section 5.6 of this bill prescribes the duties of the Executive Director. Section 5.7 of this bill requires the Executive Director to select at least one research analyst and two secretaries for the Office and provides for the duties of those positions. Section 9.3 of this bill: (1) revises the membership of the Sentencing Commission to remove the Attorney General and the State Public Defender; (2) revises the membership of the Sentencing Commission to add a member from the Office of the Clark County Public Defender and the Office of the Washoe County Public Defender; and (3) requires the Sentencing Commission to hold its first meeting on or before September 1 of each odd-numbered year.**

**Existing law requires the Sentencing Commission to be provided with such staff as is necessary, to the extent of legislative appropriation, by the Director of the Legislative Counsel Bureau. (NRS 176.0133) Section 9.3 designates the Executive Director as the Executive Secretary of the Sentencing Commission and transfers the staffing of the Sentencing Commission to the newly established Office. Section 9.7 of this bill revises the duties of the Sentencing Commission to: (1) include the oversight of the Executive Director; and (2) provide certain recommendations and advice concerning the Office.**

**Section 6 of this bill requires the Sentencing Commission** to: (1) track and assess outcomes resulting from **, and trends observed after,** the enactment of this bill; and (2) submit a biennial report to the Governor, the Legislature and the Chief Justice of the Supreme Court regarding such outcomes and performance measures. **Section 7** of this bill requires the Sentencing Commission to: (1) calculate for each fiscal year the amount of the costs avoided by this State because of the enactment of this bill; and (2) submit to the Governor and the Legislature a statement of the amount of such avoided costs and recommendations for the reinvestment of the amount of those avoided costs in certain programs. **Section 8** of this bill creates the Nevada

Local Justice Reinvestment Coordinating Council, which **: (1)** consists of one member from each county in the State **whose population is less than 100,000 and two members from each county in the State whose population is 100,000 or more;** and **(2)** is required to advise the Sentencing Commission on matters concerning the provisions of this bill as they relate to local governments **and nonprofit organizations** and to perform certain other duties.

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

**Section 1.** NRS 174.015 is hereby amended to read as follows:

174.015 1. ~~Except as otherwise provided in subsection 3, arraignment shall~~ **Arraignment must** be conducted in open court and ~~shall~~ **must** consist of reading the indictment or information to the defendant or stating the substance of the charge and calling on the defendant to plead thereto. The defendant ~~shall~~ **must** be given a copy of the indictment or information before the defendant is called upon to plead.

2. In justice court or municipal court, before the trial commences, the complaint must be distinctly read to the defendant before the defendant is called upon to plead.

~~3. In district court, justice court or municipal court, before the defendant is called upon to plead, the court shall determine whether the defendant is eligible for assignment to a preprosecution diversion program pursuant to NRS 174.031.~~

**Sec. 2.** NRS 174.031 is hereby amended to read as follows:

174.031 1. At the arraignment of a defendant in justice court or municipal court ~~or~~ ***or after the transfer of a case to district court,*** but before the entry of a plea, the court may determine whether the defendant is eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032. The court shall receive input from the prosecuting attorney and the attorney for the defendant, if any, whether the defendant would benefit from and is eligible for assignment to the program.

2. A defendant may be determined to be eligible by the court for assignment to a preprosecution diversion program if the defendant:

(a) Is charged with a misdemeanor, **gross misdemeanor or felony** other than:

(1) A crime of violence as defined in NRS 200.408;

(2) ***Any offense that resulted in the death of or substantial bodily harm to another person;***

(3) Vehicular manslaughter as described in NRS 484B.657;

~~(3)~~ (4) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130;

or

~~(4)~~ (5) A minor traffic offense; and

(b) Has not previously been:

(1) Convicted of violating any criminal law other than a minor traffic offense; or

(2) Ordered by a court to complete a preprosecution diversion program in this State.

3. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to subsection 2, the *district court*, justice court or municipal court may order the defendant to complete the program pursuant to subsection 5 of NRS 174.032.

4. A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the *district court*, justice court or municipal court relating to the participation of the defendant in such a program.

**Sec. 3.** NRS 174.032 is hereby amended to read as follows:

174.032 1. A *district court*, justice court or municipal court may establish a preprosecution diversion program to which it may assign a defendant if he or she is determined to be eligible pursuant to NRS 174.031.

2. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to NRS 174.031, the *district court*, justice *court* or municipal court must receive input from the prosecuting attorney, the attorney for the defendant, if any, and the defendant relating to the terms and conditions for the defendant's participation in the program.

3. A preprosecution diversion program established by a *district court*, justice court or municipal court pursuant to this section may include, without limitation:

(a) A program of treatment which may rehabilitate a defendant, including, without limitation, educational programs, participation in a support group, anger management therapy, counseling or a program of treatment for veterans and members of the military, mental illness or intellectual disabilities or the ~~abuse~~ use of alcohol or drugs;

(b) Any appropriate sanctions to impose on a defendant, which may include, without limitation, community service, restitution, prohibiting contact with certain persons or the imposition of a curfew; and

(c) Any other factor which may be relevant to determining an appropriate program of treatment or sanctions to require for participation of a defendant in the preprosecution diversion program.

4. If the *district court*, justice court or municipal court determines that a defendant may be rehabilitated by a program of treatment for veterans and members of the military, persons with mental illness or intellectual disabilities or the ~~abuse~~ use of alcohol or drugs, the court may refer the defendant to an appropriate program of treatment established pursuant to NRS 176A.250, 176A.280 or ~~453.580~~ **section 20 of this act**. The court shall retain jurisdiction over the defendant while the defendant completes such a program of treatment.

5. The *district court*, justice court or municipal court shall, when assigning a defendant to a preprosecution diversion program, issue an order setting forth

the terms and conditions for successful completion of the preprosecution diversion program, which may include, without limitation:

- (a) Any program of treatment the defendant is required to complete;
- (b) Any sanctions and the manner in which they must be carried out by the defendant;
- (c) The date by which the terms and conditions must be completed by the defendant, which must not be more than 18 months after the date of the order;
- (d) A requirement that the defendant appear before the court at least one time every 3 months for a status hearing on the progress of the defendant toward completion of the terms and conditions set forth in the order; and
- (e) A notice relating to the provisions of subsection 3 of NRS 174.033.

6. A defendant assigned to a preprosecution diversion program shall pay the cost of any program of treatment required by this section to the extent of his or her financial resources. The court shall not refuse to place a defendant in a program of treatment if the defendant does not have the financial resources to pay any or all of the costs of such program.

7. If restitution is ordered to be paid pursuant to subsection 5, the defendant must make a good faith effort to pay the required amount of restitution in full. If the *district court*, justice court or municipal court determines that a defendant is unable to pay such restitution, the court must require the defendant to enter into a judgment by confession for the amount of restitution.

**Sec. 4.** NRS 174.033 is hereby amended to read as follows:

174.033 1. If the *district court*, justice court or municipal court determines that a defendant has successfully completed the terms and conditions of a preprosecution diversion program ordered pursuant to subsection 5 of NRS 174.032, the court must discharge the defendant and dismiss the indictment, information, complaint or citation.

2. Discharge and dismissal pursuant to subsection 1 is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the indictment, information, complaint or citation. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the indictment, information, complaint or citation in response to an inquiry made of the defendant for any purpose.

3. If the *district court*, justice court or municipal court determines that a defendant has not successfully completed the terms or conditions of a preprosecution diversion program ordered pursuant to subsection 5 of NRS 174.032, the court must issue an order terminating the participation of the defendant in the preprosecution diversion program and order the defendant to appear for an arraignment to enter a plea based on the original indictment, information, complaint or citation pursuant to NRS 174.015.

Sec. 5. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~46, 7 and~~ 5.2 to 8, inclusive, of this act.

Sec. 5.2. As used in NRS 176.0132 to 176.0139, inclusive, and sections 5.2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 176.0132 and sections 5.3 and 5.4 of this act have the meanings ascribed to them in those sections.

Sec. 5.3. "Executive Director" means the Executive Director of the Office.

Sec. 5.4. "Office" means the Office of the Nevada Sentencing Commission created by section 5.5 of this act.

Sec. 5.5. 1. The Office of the Nevada Sentencing Commission is hereby created within the Office of the Governor.

2. The Executive Director of the Office must be appointed by the Governor from a list of three persons recommended by the Sentencing Commission.

3. The Executive Director:

(a) Is not in the classified or unclassified service of this State;

(b) Serves at the pleasure of the Sentencing Commission, except that the Executive Director may only be removed upon a finding by the Sentencing Commission that his or her performance is unsatisfactory;

(c) Must be an attorney licensed to practice law in this State; and

(d) Shall devote his or her entire time and attention to the duties of his or her office and shall not engage in any other gainful employment or occupation.

Sec. 5.6. The Executive Director appointed pursuant to section 5.5 of this act shall:

1. Oversee all of the functions of the Office.

2. Serve as Executive Secretary of the Sentencing Commission without additional compensation.

3. Report to the Sentencing Commission on sentencing and related issues regarding the functions of the Office and provide such information to the Sentencing Commission as requested.

4. Assist the Sentencing Commission in determining necessary and appropriate recommendations to assist in carrying out the responsibilities of the Office.

5. Establish the budget for the Office.

6. Facilitate the collection and aggregation of data from the courts, Department of Corrections, Division of Parole and Probation of the Department of Public Safety and any other agency of criminal justice.

7. Identify variables or sets of data concerning criminal justice that are not currently collected or shared across agencies of criminal justice within this State.

8. Assist in the development, presentation and submittal of any legislative measure requested by the Sentencing Commission pursuant to NRS 218D.216.



9. Assist in preparing the comprehensive report required to be prepared by the Sentencing Commission pursuant to subsection 11 of NRS 176.0134 and submit the report pursuant to subsection 12 of that section.

10. Take any other actions necessary to carry out the powers and duties of the Sentencing Commission pursuant to NRS 176.0132 to 176.0139, inclusive, and sections 5.2 to 8, inclusive, of this act.

Sec. 5.7. 1. In addition to the Executive Director, the Office must include not less than one research analyst and two secretaries, each of whom must be selected by the Executive Director and serve at the pleasure of the Executive Director.

2. The research analyst:

(a) May be an attorney licensed to practice law in this State;

(b) Is not in the classified or unclassified service of this State;

(c) Must be proficient in the use, collection and analysis of statistics and data; and

(d) Shall devote his or her entire time and attention to his or her duties as specified by the Executive Director and shall not engage in any other gainful employment or occupation.

3. The secretaries selected pursuant to subsection 1:

(a) Are not in the classified or unclassified service of this State;

(b) Must include not less than one secretary who is proficient in transcribing minutes; and

(c) Shall be responsible for preparing and posting agendas, transcribing minutes and performing any other duties assigned by the Executive Director.

Sec. 6. 1. The Sentencing Commission shall:

(a) Track and assess outcomes resulting from the enactment of this act, including, without limitation, the following data from the Department of Corrections ~~and the Division~~:

(1) With respect to prison admissions:

(I) ~~The total prison population; and~~

~~(II)~~ The total number of persons admitted to prison by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age and, if measured upon intake, risk score ~~and~~;

(II) The average minimum and maximum sentence term by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score; and

(III) The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.

(2) With respect to parole and release from prison:

(I) The average length of stay in prison for ~~all types~~ each type of release ~~and types~~ by type of offense ~~and~~, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons released from prison each year by type of release ~~f-7~~, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(III) ~~The number of parole releases and paroles granted by type of parole; and~~

~~(IV)~~ The recidivism rate of persons released from prison ~~f-7~~ by type of release; and

(IV) The total number of persons released from prison each year who return to prison within 36 months by type of admission, type of release, type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score.

(3) With respect to the number of persons in prison:

(I) The total number of persons held in prison on December 31 of each year, not including those persons released from a term of prison who reside in a parole housing unit, by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons held in prison on December 31 of each year who have been granted parole by the State Board of Parole Commissioners but remain in custody, and the reasons therefor;

(III) The total number of persons held in prison on December 31 of each year who are serving a sentence of life with or without the possibility of parole or who have been sentenced to death; and

(IV) The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison and are awaiting a treatment program while in prison, by type of treatment program and type of offense.

(b) Track and assess outcomes resulting from the enactment of this act with respect to the following data, which the Division shall collect and report to the Sentencing Commission:

(1) With respect to the number of persons on probation or parole:

(I) The total number of supervision intakes by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The average ~~sentence length~~ term of probation imposed for persons on probation by type of offense;

(III) The average time served by persons on probation or parole ~~f-7~~ by type of discharge, felony category and type of offense;

(IV) The average time credited to a person's term of probation or parole as a result of successful compliance with supervision;

(V) The total number of supervision discharges by type of discharge ~~and~~

~~(V)~~, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison;

(VI) The recidivism rate of persons discharged from supervision ~~by~~  
~~(4)~~ by type of discharge, according to the Division's internal definition of recidivism;

(VII) The number of persons identified as having a mental health issue or a substance use disorder; and

(VIII) The total number of persons on probation or parole who are located within this State on December 31 of each year, not including those persons who are under the custody of the Department of Corrections.

(2) With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:

(I) The total number of revocations and the reasons therefor ~~and~~, including, without limitation, whether the revocation was the result of a mental health issue or substance use disorder;

(II) The average amount of time credited to a person's suspended sentence or the remainder of the person's sentence from time spent on supervision;

(III) The total number of ~~nonjail~~ persons receiving administrative or jail sanctions ~~administered~~, by type of offense and felony category; and

(IV) The ~~total~~ median number of administrative ~~and~~ sanctions issued by the Division to persons on supervision, by type of offense and ~~the~~ average length of stay in jail therefor.

~~(5) With~~ felony category.

(c) Track and assess outcomes resulting from the enactment of this act with respect to savings and reinvestment ~~and~~

~~(1)~~, including, without limitation:

(1) The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system;

~~(2)~~ (2) The total annual costs avoided by this State because of the enactment of this act, as calculated pursuant to section 7 of this act; and

~~(3)~~ (3) The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used.

~~(b)~~ (d) Track and assess trends observed after the enactment of this act, including, without limitation, the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:

(1) The uniform crime rates for this State and each county in this State by index crimes and type of crime; and

(2) The percentage changes in uniform crime rates for this State and each county in this State over time by index crimes and type of crime.

(e) Identify gaps in this State's data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

(f) Prepare and submit a report not later than the first day of the second full week of each regular session of the Legislature to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the Chief Justice of the Nevada Supreme Court. The report must include recommendations for improvements, changes and budgetary adjustments and may also present additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

~~[ 2. To the extent of legislative appropriation, the Director of the Legislative Counsel Bureau shall provide the Sentencing Commission with such staff as is necessary to carry out the duties of the Sentencing Commission pursuant to this section. The Sentencing Commission may also employ]~~

(g) Employ and retain other professional staff as necessary to coordinate performance and outcome measurement and develop the report required pursuant to this section.

2. As used in this section:

(a) "Technical violation" has the meaning ascribed to it in section 18 of this act.

(b) "Type of admission" means the manner in which a person entered into the custody of the Department of Corrections, according to the internal definitions used by the Department of Corrections.

(c) "Type of offense" means an offense categorized by the Department of Corrections as a violent offense, sex offense, drug offense, property offense, DUI offense or other offense, consistent with the internal data systems used by the Department of Corrections.

Sec. 7. 1. The Sentencing Commission shall develop a formula to calculate for each fiscal year the amount of costs avoided by this State because of the enactment of this act. The formula must include, without limitation, a comparison of:

(a) The annual projection of the number of persons who will be in a facility or institution of the Department of Corrections which was created by the Office of Finance pursuant to NRS 176.0129 for calendar year 2018; and

(b) The actual number of persons who are in a facility or institution of the Department of Corrections during each year.

2. Not later than December 1 of each fiscal year, the Sentencing Commission shall use the formula developed pursuant to subsection 1 to calculate the costs avoided by this State for the immediately preceding fiscal year because of the enactment of this act and submit a statement of the amount of the costs avoided to the Governor and the Director of the

*Legislative Counsel Bureau for transmittal to the Interim Finance Committee.*

3. *Not later than August 1 of each even-numbered year, the Sentencing Commission shall prepare a report containing the projected amount of costs avoided by this State for the next biennium because of the enactment of this act and recommendations for the reinvestment of the amount of those costs to provide financial support to programs and services that address the behavioral health needs of persons involved in the criminal justice system in order to reduce recidivism. In preparing the report, the Commission shall prioritize providing financial support to:*

*(a) The Department of Corrections for programs for reentry of offenders and parolees into the community, programs for vocational training and employment of offenders, educational programs for offenders and transitional work program for offenders;*

*(b) The Division for services for offenders reentering the community, the supervision of probationers and parolees and programs of treatment for probationers and parolees that are proven by scientific research to reduce recidivism;*

*(c) Any ~~mental~~ behavioral health field response grant program developed and implemented pursuant to section 104 of this act;*

*(d) The Housing Division of the Department of Business and Industry to create or provide transitional housing for probationers and parolees and offenders reentering the community; and*

*(e) The Nevada Local Justice Reinvestment Coordinating Council created by section 8 of this act for the purpose of making grants to counties for programs and treatment that reduce recidivism of persons involved in the criminal justice system.*

4. *Not later than August 1 of each even-numbered year, the Sentencing Commission shall submit the report prepared pursuant to subsection 3 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.*

Sec. 8. 1. *The Nevada Local Justice Reinvestment Coordinating Council is hereby created. The Council consists of ~~one~~ :*

*(a) One member from each county in this State ~~+~~ whose population is less than 100,000; and*

*(b) Two members from each county in this State whose population is 100,000 or more.*

2. *Each member of the Council must be appointed by the governing body of the applicable county. The Chair of the Sentencing Commission shall appoint the Chair of the Council from among the members of the Council.*

~~2.~~ 3. *The Council shall:*

*(a) Advise the Sentencing Commission on matters related to any legislation, regulations, rules, budgetary changes and all other actions needed to implement the provisions of this act as they relate to local governments;*

(b) *Identify county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism;*

(c) *Make recommendations to the Sentencing Commission regarding grants to local governments and nonprofit organizations from the State General Fund;*

(d) *Oversee the implementation of local grants; ~~and~~*

(e) *Create performance measures to assess the effectiveness of the grants*

~~fr~~  
~~3.7~~ ; and

(f) Identify opportunities for collaboration with the Department of Health and Human Services at the state and county level for treatment services and funding.

4. *Each member of the Council serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*

~~4.1~~ 5. *While engaged in the business of the Council, to the extent of legislative appropriation, each member of the Council is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

~~5.1~~ 6. *To the extent of legislative appropriation, the ~~Director of the Legislative Counsel Bureau~~ Sentencing Commission shall provide the Council with such staff as is necessary to carry out the duties of the Council pursuant to this section.*

Sec. 9. NRS 176.0132 is hereby amended to read as follows:

176.0132 ~~[As used in NRS 176.0132 to 176.0139, inclusive, and sections 6, 7 and 8 of this act,]~~ “Sentencing Commission” means the Nevada Sentencing Commission created by NRS 176.0133.

Sec. 9.3. **NRS 176.0133 is hereby amended to read as follows:**

176.0133 1. The Nevada Sentencing Commission is hereby created. The Sentencing Commission consists of:

(a) One member appointed by the Governor;

(b) One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;

(c) Two members who are judges appointed by the Chief Justice of the Supreme Court of Nevada;

(d) One member who is a representative of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Nevada;

(e) The Director of the Department of Corrections;

(f) ~~The Attorney General;~~

~~(g)~~ One member who is a representative of the Office of the Attorney General, appointed by the Attorney General;

~~[(h)]~~ (g) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

~~[(i)]~~ ~~The State Public Defender;~~

~~[(j)]~~ (h) One member who is a representative of the Office of the Clark County Public Defender, appointed by the head of the Office of the Clark County Public Defender;

~~[(i)]~~ One member who is a representative of the ~~office~~ Office of ~~a county public defender,~~ the Washoe County Public Defender, appointed by the ~~governing body of the State Bar,~~ head of ~~Nevada;~~

~~[(k)]~~ the Office of the Washoe County Public Defender;

~~[(j)]~~ (j) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

~~[(l)]~~ (k) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

~~[(m)]~~ (l) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;

~~[(n)]~~ (m) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

~~[(o)]~~ (n) One member who is a representative of the Nevada Sheriffs' and Chiefs' Association, appointed by the Nevada Sheriffs' and Chiefs' Association;

~~[(p)]~~ (o) One member who is a representative of the Las Vegas Metropolitan Police Department, appointed by the Sheriff of Clark County;

~~[(q)]~~ (p) One member who is a representative of the Division of Public and Behavioral Health of the Department of Health and Human Services;

~~[(r)]~~ (q) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;

~~[(s)]~~ (r) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate;

~~[(t)]~~ (s) Two members who are members of the Assembly, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly;

~~[(u)]~~ (t) The Director of the Department of Employment, Training and Rehabilitation; and

~~[(v)]~~ (u) One member who is a representative of an organization that works with offenders upon release from incarceration to assist in reentry into the community appointed by the Chair of the Legislative Commission.

2. The Executive Director shall serve as the Executive Secretary of the Sentencing Commission.

3. If any organization listed in subsection 1 ceases to exist, the appointment required pursuant to that subsection must be made by the

association's successor in interest, or, if there is no successor in interest, by the Governor.

~~13~~ 4. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Sentencing Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

~~14~~ 5. The Legislators who are members of the Sentencing Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Sentencing Commission.

~~15~~ 6. At the first regular meeting of each odd-numbered year, the members of the Sentencing Commission shall elect a Chair by majority vote who shall serve until the next Chair is elected.

~~16~~ 7. The Sentencing Commission shall ~~meet~~ :

(a) Hold its first meeting on or before September 1 of each odd-numbered year; and

(b) Meet at least once every 3 months and may meet at such further times as deemed necessary by the Chair.

~~17~~ 8. A member of the Sentencing Commission may designate a nonvoting alternate to attend a meeting in his or her place.

~~18~~ 9. A majority of the members of the Sentencing Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Sentencing Commission. A nonvoting alternate designated by a member pursuant to subsection 7 who attends a meeting of the Sentencing Commission for which the alternate is designated shall be deemed to be a member of the Sentencing Commission for the purpose of determining whether a quorum exists.

~~19~~ 10. While engaged in the business of the Sentencing Commission, to the extent of legislative appropriation, each member of the Sentencing Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~10. To the extent of legislative appropriation, the Director of the Legislative Counsel Bureau~~

11. The Office shall provide the Sentencing Commission with such staff as ~~is necessary~~ prescribed in sections 5.5, 5.6 and 5.7 of this act to carry out the duties of the Sentencing Commission.

**Sec. 9.7. NRS 176.0134 is hereby amended to read as follows:**

176.0134 The Sentencing Commission shall:

1. Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.



2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, without limitation, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, without limitation, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Facilitate the development and maintenance of a statewide sentencing database in collaboration with state and local agencies, using existing databases or resources where appropriate.

5. Provide training regarding sentencing and related issues, policies and practices, and act as a sentencing policy resource for this State.

6. Evaluate the impact of pretrial, sentencing diversion, incarceration and postrelease supervision programs.

7. Identify potential areas of sentencing disparity related to race, gender and economic status.

8. Propose and recommend statutory sentencing guidelines, based on reasonable offense and offender characteristics which aim to preserve judicial discretion and provide for individualized sentencing, for the use of the district courts. If such guidelines are enacted by the Legislature, the Sentencing Commission shall review and propose any recommended changes.

9. Evaluate whether sentencing guidelines recommended pursuant to subsection 8 should be mandatory and if judicial findings should be required for any departures from the sentencing guidelines.

10. Oversee the Executive Director and provide recommendations and advice concerning the administration of the Office, including, without limitation:

(a) Receiving reports from the Executive Director and providing direction to the Executive Director concerning measures to be taken by the Office to ensure compliance with the duties of the Sentencing Commission.

(b) Reviewing information from the Office regarding sentencing of offenders in this State.

(c) Directing the Executive Director to conduct any audit, investigation or review the Sentencing Commission deems necessary to carry out the duties of the Sentencing Commission.

(d) Coordinating with the Executive Director to develop procedures for the identification and collection of data concerning the sentencing of offenders in this State.

(e) Providing direction to the Executive Director concerning any required reports and reviewing drafts of such reports.

(f) Reviewing recommendations of the Executive Director concerning the budget for the Office, improvements to the criminal justice system and legislation related to the duties of the Sentencing Commission.

(g) Providing advice and recommendations to the Executive Director on any other matter.

11. For each regular session of the Legislature, with the assistance of the Office, prepare a comprehensive report including:

(a) The Sentencing Commission's recommended changes pertaining to sentencing;

(b) The Sentencing Commission's findings and any recommendations for proposed legislation; and

(c) A reference to any legislative measure requested pursuant to NRS 218D.216.

~~11.~~ 12. The report prepared pursuant to subsection 11 must be submitted to ~~the~~ :

(a) The Office of the Governor; and

(b) The Director of the Legislative Counsel Bureau for distribution to the Legislature not later than January 1 of each odd-numbered year.

**Sec. 10.** NRS 176.015 is hereby amended to read as follows:

176.015 1. Sentence must be imposed without unreasonable delay. Pending sentence, the court may commit the defendant or continue or alter the bail.

2. Before imposing sentence, the court shall:

- (a) Afford counsel an opportunity to speak on behalf of the defendant; and
- (b) Address the defendant personally and ask the defendant if:

(1) The defendant wishes to make a statement in his or her own behalf and to present any information in mitigation of punishment; and

(2) The defendant is a veteran or a member of the military. If the defendant meets the qualifications of subsection 1 of NRS 176A.280, the court may, if appropriate, assign the defendant to:

(I) A program of treatment established pursuant to NRS 176A.280; or

(II) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or ~~453.580~~ **section 20 of this act.**

3. After hearing any statements presented pursuant to subsection 2 and before imposing sentence, the court shall afford the victim an opportunity to:

(a) Appear personally, by counsel or by personal representative; and

(b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.

4. The prosecutor shall give reasonable notice of the hearing to impose sentence to:

(a) The person against whom the crime was committed;

(b) A person who was injured as a direct result of the commission of the crime;

(c) The surviving spouse, parents or children of a person who was killed as a direct result of the commission of the crime; and

(d) Any other relative or victim who requests in writing to be notified of the hearing.

↪ Any defect in notice or failure of such persons to appear are not grounds for an appeal or the granting of a writ of habeas corpus. All personal information, including, but not limited to, a current or former address, which pertains to a victim or relative and which is received by the prosecutor pursuant to this subsection is confidential.

5. For the purposes of this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

(c) "Veteran" has the meaning ascribed to it in NRS 176A.090.

(d) "Victim" includes:

(1) A person, including a governmental entity, against whom a crime has been committed;

(2) A person who has been injured or killed as a direct result of the commission of a crime; and

(3) A relative of a person described in subparagraph (1) or (2).

6. This section does not restrict the authority of the court to consider any reliable and relevant evidence at the time of sentencing.

**Sec. 10.5. NRS 176.033 is hereby amended to read as follows:**

176.033 ~~11~~ If a sentence of imprisonment is required or permitted by statute, the court shall:

~~(a)~~ **1.** If sentencing a person who has been found guilty of a misdemeanor or a gross misdemeanor, sentence the person to imprisonment for a definite period of time within the maximum limit or the minimum and maximum limits prescribed by the applicable statute, taking due account of the gravity of the particular offense and of the character of the individual defendant.

~~(b)~~ **2.** If sentencing a person who has been found guilty of a felony, sentence the person to a minimum term and a maximum term of imprisonment, unless a definite term of imprisonment is required by statute.

~~(c)~~ **3.** If restitution is appropriate, set an amount of restitution for each victim of the offense and for expenses related to extradition in accordance with NRS 179.225.

~~4. At any time after a prisoner has been released on parole and has served one half of the period of parole, or 10 consecutive years on parole in the case of a prisoner sentenced to life imprisonment, the State Board of Parole Commissioners, upon the recommendation of the Division, may petition the court of original jurisdiction requesting a modification of sentence. The Board shall give notice of the petition and hearing thereon to the Attorney General or district attorney who had jurisdiction in the original proceedings. Upon hearing the recommendation of the State Board of Parole Commissioners and good cause appearing, the court may modify the original sentence by reducing the maximum term of imprisonment but shall not make the term less than the minimum term prescribed by the applicable penal statute.~~

**Sec. 11. NRS 176.0613 is hereby amended to read as follows:**

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059, 176.0611 and 176.0623, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced

to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

- (a) An ordinance regulating metered parking; or
- (b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

- (a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;
- (b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;
- (c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs;
- (d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to NRS 176.0623; and
- (e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer

shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) “Office of Court Administrator” means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) “Specialty court program” means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or ~~abuses~~ uses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or ~~453.580.~~ **section 20 of this act.**

**Sec. 12.** NRS 176.135 is hereby amended to read as follows:

176.135 1. Except as otherwise provided in this section and NRS 176.151, the Division shall make a presentence investigation and report to the court on each defendant who pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, a felony.

2. If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and

(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

3. If a defendant is convicted of a felony other than a sexual offense, the presentence investigation and report must be made before the imposition of sentence or the granting of probation unless:

(a) A sentence is fixed by a jury; or

(b) Such an investigation and report on the defendant has been made by the Division within the 5 years immediately preceding the date initially set for sentencing on the most recent offense.

4. Upon request of the court, the Division shall make presentence investigations and reports on defendants who plead guilty, guilty but mentally ill or nolo contendere to, or are found guilty or guilty but mentally ill of, gross misdemeanors.

***5. Each court in which a report of a presentence investigation can be made must ensure that each judge of the court receives training concerning the manner in which to use the information included in a report of a presentence investigation for the purpose of imposing a sentence. Such training must include, without limitation, education concerning behavioral health needs and intellectual or developmental disabilities.***

**Sec. 13.** NRS 176.145 is hereby amended to read as follows:

176.145 1. The report of any presentence investigation must contain:

(a) Any:

(1) Prior criminal convictions of the defendant;

(2) Unresolved criminal cases involving the defendant;

(3) Incidents in which the defendant has failed to appear in court when his or her presence was required;

(4) Arrests during the 10 years immediately preceding the date of the offense for which the report is being prepared; and

(5) Participation in any program in a specialty court or any diversionary program, including whether the defendant successfully completed the program;

(b) Information concerning the characteristics of the defendant, the defendant's financial condition, including whether the information pertaining to the defendant's financial condition has been verified, the circumstances affecting the defendant's behavior and the circumstances of the defendant's offense that may be helpful in imposing sentence, in granting probation or in the correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination is solely at the discretion of the court or the Division and the extent of the information to be included in the report is solely at the discretion of the Division;

(d) Information concerning whether the defendant has an obligation for the support of a child, and if so, whether the defendant is in arrears in payment on that obligation;

(e) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS and NRS 392.275 to 392.365, inclusive, that relate to the defendant and are made available pursuant to NRS 432B.290 or NRS 392.317 to 392.337, inclusive, as applicable;

(f) The results of ~~the~~ **any evaluation or assessment** of the defendant conducted pursuant to NRS **176A.260, 176A.280 or 484C.300** ~~if such an evaluation is required pursuant to that section;~~ **or section 22 of this act;**

~~(g) A recommendation of a minimum term and a maximum term of imprisonment or other term of imprisonment authorized by statute, or a fine, or both;~~

~~(h) A recommendation, if the Division deems it appropriate, that the defendant undergo a program of regimental discipline pursuant to NRS 176A.780;~~

~~(i) If a psychosexual evaluation of the defendant is required pursuant to NRS 176.139, a written report of the results of the psychosexual evaluation of the defendant and all information that is necessary to carry out the provisions of NRS 176A.110; and~~

~~(j) (h) Such other information as may be required by the court.~~

~~2. The Division shall include in the report all scoresheets and scales used in determining any recommendation made pursuant to paragraphs (g) and (h) of subsection 1.~~

~~3. The Division shall include in the report the source of any information, as stated in the report, related to the defendant's offense, including, without limitation, information from:~~

~~(a) A police report;~~

~~(b) An investigative report filed with law enforcement; or~~

~~(c) Any other source available to the Division.~~

~~4. 3. The Division may include in the report any additional information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment.~~

~~4. Any risk and needs assessment used by the Division during a presentence investigation must undergo a validation study not less than once every 3 years and be used in accordance with the Division's definition of recidivism. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of any risk and needs assessment used during a presentence investigation. As used in this subsection, "risk and needs assessment" has the meaning ascribed to it in NRS 213.107.~~

Sec. 14. NRS 176.153 is hereby amended to read as follows:

176.153 1. Except as otherwise provided in subsection 3, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than 14 calendar days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 . ~~and the recommendations of the Division.~~



2. In addition to the disclosure requirements set forth in subsection 1, if the Division includes in the report of any presentence investigation made pursuant to NRS 176.135 any information relating to the defendant being affiliated with or a member of a criminal gang and the Division reasonably believes such information is disputed by the defendant, the Division shall provide with the information disclosed pursuant to subsection 1 copies of all documentation relied upon by the Division as a basis for including such information in the report, including, without limitation, any field interview cards.

3. The defendant may waive the minimum period required by subsection 1.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

**Sec. 15.** NRS 176.156 is hereby amended to read as follows:

176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:

(a) Any presentence investigation made pursuant to NRS 176.135 ~~and the recommendations of the Division~~ and, if applicable, provide the documentation required pursuant to subsection 2 of NRS 176.153, in the period provided in NRS 176.153.

(b) Any general investigation made pursuant to NRS 176.151.

↪ The Division shall afford an opportunity to each party to object to factual errors in any such report. ~~and to comment on any recommendations.~~ The court may order the Division to correct the contents of any such report following sentencing of the defendant if, within 180 days after the date on which the judgment of conviction was entered, the prosecuting attorney and the defendant stipulate to correcting the contents of any such report.

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.

3. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Division of Public and Behavioral Health of the Department of Health and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:

(a) A sex offender as defined in NRS 213.107; or

(b) An offender who has been determined to be mentally ill.

4. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Nevada Gaming Control Board for the limited purpose of

performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.

5. Except for the disclosures required by subsections 1 to 4, inclusive, a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record.

Sec. 16. Chapter 176A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~17~~ **16.5** to 23, inclusive, of this act.

Sec. 16.5. “Specialty court program” means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or use alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or section 20 of this act.

Sec. 17. 1. *The Division shall petition the court to recommend the early discharge of a person from probation if the person:*

(a) *Has not violated any condition of probation during the immediately preceding 12 months;*

(b) *Is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076; ~~and~~*

(c) ~~*Is in good standing with the payment of*~~ *Has paid restitution in full or, because of economic hardship that is verified by the Division, has been unable to make restitution as ordered by the court ~~and~~; and*

*(d) Has completed a program of substance use treatment or mental health treatment or a specialty court program as mandated by the court or the Division.*

2. *This section must not be construed to prohibit the court from ~~denying~~ allowing the early discharge of a person from probation ~~even~~ if the person ~~meets~~ does not meet the requirements set forth in subsection 1.*

Sec. 18. 1. *The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation or parole. The system must:*

(a) *Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.*

(b) *Take into account factors such as responsivity factors impacting a person’s ability to successfully complete any conditions of supervision, the severity of the current violation, the person’s previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.*

2. ~~*The Division shall establish by policy an administrative process to review and approve or reject, before imposition, graduated sanctions that deviate from the written system of graduated sanctions adopted pursuant to*~~

~~subsection 1 and a quality assurance process to ensure proper imposition of graduated sanctions.~~

~~3.]~~ The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

~~4.]~~ 3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

~~5.]~~ 4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with ~~the written~~ notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed. ~~Upon receipt of the notice, the person may accept or reject the sanction. If the person objects to the imposition of the sanction, the person is entitled to an administrative review by a parole and probation officer, other than the officer who imposed the sanction, not later than 15 calendar days after the issuance of the notice. If the Division affirms the recommendation contained in the notice, the sanction becomes effective immediately.~~

~~6.]~~ 5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of probation or parole.

~~7.]~~ 6. The Division may not seek revocation of probation or parole for a technical violation of the conditions of probation or parole until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

~~8.]~~ 7. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.  
 (b) "Responsivity factors" has the meaning ascribed to it in NRS 213.107.  
 (c) "Technical violation" means any alleged violation of the conditions of probation or parole that is not the commission of a new felony, ~~or~~ gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485 or violation of NRS 484C.110 or 484C.120 and does not constitute absconding. The term does not include termination from a specialty court program.

Sec. 19. 1. Upon a plea of guilty, guilty but mentally ill or nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer judgment on the case to a specified future date and set forth specific terms and conditions for the defendant. The duration of the deferral period must not exceed the applicable period set forth in subsection 1 of NRS 176A.500 or the extension of the period pursuant to subsection 2 of NRS 176A.500.

2. *The terms and conditions set forth for the defendant during the deferral period may include, without limitation, the:*

- (a) *Payment of restitution;*
- (b) *Payment of court costs;*
- (c) *Payment of an assessment in lieu of any fine authorized by law for the offense;*
- (d) *Payment of any other assessment or cost authorized by law;*
- (e) *Completion of a term of community service;*
- (f) *Placement on probation pursuant to NRS 176A.500 and the ordering of any conditions which can be imposed for probation pursuant to NRS 176A.400; or*
- (g) *Completion of a specialty court program.*

3. ~~The~~ Upon the consent of the defendant, the court shall :

(a) Shall defer judgment for any ~~person placed~~ defendant who has entered a plea of guilty, guilty but mentally ill or nolo contendere to a violation of paragraph (a) of subsection 2 of NRS 453.336; or

(b) May defer judgment for any defendant who is placed in a specialty court program, ~~unless the court finds that the person poses a risk to public safety and must be under probationary supervision.~~ The court may extend ~~the~~ any deferral period for not more than 12 months to allow for the completion of a specialty court program.

4. Upon violation of a term or condition:

(a) Except as otherwise provided in paragraph (b):

(1) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(2) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

(b) If the defendant has been placed in the program for a first or second violation of paragraph (a) of subsection 2 of NRS 453.336, the court may allow the defendant to continue to participate in the program or terminate the participation of the defendant in the program. If the court terminates the participation of the defendant in the program, the court shall allow the defendant to withdraw his or her plea.

5. Upon completion of the terms and conditions of the deferred judgment, and upon a finding by the court that the terms and conditions have been met, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the

contemplation of the law, to the status occupied before the arrest, indictment or information.

~~{5.}~~ 6. The court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division or the prosecutor petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

~~{6.}~~ 7. If the court orders sealed the record of a defendant discharged pursuant to this section, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

~~{7. As used in this section, "specialty court program" has the meaning ascribed to it in NRS 176A.500.}~~

Sec. 20. A court may establish an appropriate program for the treatment of drug or alcohol ~~{abuse}~~ use to which it may assign a defendant pursuant to NRS 174.032, 176.015, 176A.400, 453.336, 453.3363 or section 19 or 22 of this act. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 21. 1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, "eligible defendant" means a person who:

(a) Has not tendered a plea of guilty, guilty but mentally ill or nolo contendere to, or been found guilty or guilty but mentally ill of, an offense that is a misdemeanor;

(b) ~~{Appears to suffer from}~~ Has been diagnosed as having a substance ~~{abuse}~~ use disorder ~~{}~~ after an in-person clinical assessment; and

(c) Would benefit from assignment to a program established pursuant to section 20 of this act.

Sec. 22. 1. ~~{}~~ Except as otherwise provided in paragraph (a) of subsection 3 of section 19 of this act, if a defendant who suffers from a substance ~~{abuse}~~ use disorder or any co-occurring disorder tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may ~~{}~~ without :

(a) Without entering a judgment of conviction and with the consent of the defendant, suspend or defer further proceedings and ~~{assign}~~ place the defendant ~~{to treatment}~~ on probation upon terms and conditions that must include attendance and successful completion of a program established

pursuant to section 20 of this act if the court determines that the defendant is eligible for participation in such a program ~~;~~; or

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to section 20 of this act if the court determines that the defendant is eligible for participation in such a program.

2. ~~4.~~ Except as otherwise provided in subsection 4, a defendant is eligible for participation in a program established pursuant to section 20 of this act if the defendant is diagnosed as having a substance ~~abuse~~ use disorder or any co-occurring disorder:

(a) After an in-person clinical assessment by:

(1) A counselor who is licensed or certified to make such a diagnosis;

or

(2) A duly licensed physician ~~who is certified~~ qualified by the Board of Medical Examiners to make such a diagnosis; or

(b) Pursuant to a substance ~~abuse~~ use assessment.

3. A counselor or physician who diagnoses a defendant as having a substance ~~abuse~~ use disorder shall submit a report and recommendation to the court concerning the length and type of treatment required for the defendant.

4. ~~Except as otherwise provided in subsection 5, the court shall defer the defendant's sentence in accordance with section 19 of this act unless the defendant poses a risk to public safety.~~

~~5. If the offense committed by the defendant ~~involved the use or threatened use of force or violence or if~~ is a category A felony or a sexual offense that is punishable as a category B felony, the defendant ~~was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court shall not defer the defendant's sentence but may assign the defendant to the~~ is not eligible for assignment to the program . ~~as a condition of probation pursuant to NRS 176A.400.~~~~

~~6.~~ 5. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

~~7. Upon~~

6. Except as otherwise provided in this subsection, upon fulfillment of the terms and conditions, the court shall discharge the defendant from probation ~~if applicable~~ and dismiss the proceedings. If the defendant was previously convicted in this State or in any other jurisdiction of a felony or previously failed to complete a specialty court program, the court may, upon

*the defendant's fulfillment of the terms and conditions, discharge the defendant from probation and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.*

**Sec. 23. 1.** *After a defendant is discharged from probation or a case is dismissed pursuant to section 22 of this act, the court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.*

*2. If the court orders sealed the record of a defendant who is discharged from probation or whose case ~~was~~ is dismissed pursuant to section 22 of this act, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.*

**Sec. 23.5.** NRS 176A.010 is hereby amended to read as follows:

176A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 176A.020 to 176A.090, inclusive, and section 16.5 of this act have the meanings ascribed to them in those sections.

**Sec. 24.** NRS 176A.100 is hereby amended to read as follows:

176A.100 1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, lewdness with a child pursuant to NRS 201.230, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation

to the person. The ~~Unless the person is found guilty of a category E felony pursuant to paragraph (b) of subsection 2 of NRS 453.336, the~~ court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time of sentencing, it is established that the person ~~is~~:

~~— (1) Was serving a term of probation or was on parole at the time the crime was committed, whether in this State or elsewhere, for a felony conviction;~~

~~— (2) Had previously had the person's probation or parole revoked, whether in this State or elsewhere, for a felony conviction;~~

~~— (3) Had previously been assigned to a program of treatment and rehabilitation pursuant to NRS 453.580 and failed to successfully complete that program; or~~

~~— (4) Had~~ **had** previously been two times convicted, whether in this State or elsewhere, of a crime that under the laws of the situs of the crime or of this State would amount to a felony.

~~is~~ If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the purposes of this paragraph, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

(c) Another felony, a gross misdemeanor or a misdemeanor, the court may suspend the execution of the sentence imposed and grant probation as the court deems advisable.

2. In determining whether to grant probation to a person, the court shall not consider whether the person has the financial ability to participate in a program of probation secured by a surety bond established pursuant to NRS 176A.300 to 176A.370, inclusive.

3. The court shall consider the standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any, in determining whether to grant probation to a person.

4. If the court determines that a person is otherwise eligible for probation but requires more supervision than would normally be provided to a person granted probation, the court may, in lieu of sentencing the person to a term of imprisonment, grant probation pursuant to the Program of Intensive Supervision established pursuant to NRS 176A.440.

5. Except as otherwise provided in this subsection, if a person is convicted of a felony and the Division is required to make a presentence investigation and report to the court pursuant to NRS 176.135, the court shall not grant probation to the person until the court receives the report of the presentence investigation from the Chief Parole and Probation Officer. The Chief Parole and Probation Officer shall submit the report of the presentence investigation to the court not later than 45 days after receiving a request for a presentence investigation from the county clerk. If the report of the presentence



investigation is not submitted by the Chief Parole and Probation Officer within 45 days, the court may grant probation without the report.

6. If the court determines that a person is otherwise eligible for probation, the court shall, when determining the conditions of that probation, consider the imposition of such conditions as would facilitate timely payments by the person of an obligation, if any, for the support of a child and the payment of any such obligation which is in arrears.

**Sec. 25.** NRS 176A.210 is hereby amended to read as follows:

176A.210 Upon entry of an order of probation by the court, a person:

1. Shall be deemed accepted for probation for all purposes; and
2. Shall submit to the Division for filing with the clerk of the court of competent jurisdiction a signed document stating that:

(a) The person will comply with the conditions which have been imposed by the court; ~~and are stated in the document;~~ and

(b) If the person fails to comply with the conditions imposed by the court and is taken into custody outside of this State, the person waives all rights relating to extradition proceedings.

**Sec. 26.** NRS 176A.250 is hereby amended to read as follows:

176A.250 A court may establish an appropriate program for the treatment of mental illness or intellectual disabilities to which it may assign a defendant pursuant to NRS 174.032, ~~for~~ 176A.260 ~~or~~ **176A.400 or section 19 of this act**. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

**Sec. 27.** NRS 176A.260 is hereby amended to read as follows:

176A.260 1. Except as otherwise provided in ~~subsection 2,~~ paragraph (a) of subsection 3 of section 19 of this act, if ~~if~~ a defendant who suffers from mental illness or is intellectually disabled tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, ~~without~~ :

(a) Without entering a judgment of conviction and with the consent of the defendant, suspend *or defer* further proceedings and place ~~assign~~ the defendant on probation upon terms and conditions ~~to treatment~~ that must include attendance and successful completion of a program established pursuant to NRS 176A.250 ~~if the court determines that the defendant is eligible for participation in such a program~~ ~~;~~ or

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250, if the court determines that the defendant is eligible for participation in such a program.

2. ~~if~~ Except as otherwise provided in subsection 4, a defendant is eligible for participation in a program established pursuant to NRS

176A.250 if the defendant is diagnosed as having a mental illness or an intellectual disability:

(a) After an in-person clinical assessment by:

(1) A counselor who is licensed or certified to make such a diagnosis;

or

(2) A duly licensed physician ~~who is certified~~ qualified by the Board of Medical Examiners to make such a diagnosis; and

(b) If the defendant appears to suffer from a mental illness, pursuant to a mental health screening that indicates the presence of a mental illness.

3. A counselor or physician who diagnoses a defendant as having a mental illness or intellectual disability shall submit a report and recommendation to the court concerning the length and type of treatment required for the defendant ~~for~~ within the maximum probation terms applicable to the offense for which the defendant is convicted.

~~4. Except as otherwise provided in subsection 5, the court shall defer the defendant's sentence in accordance with section 19 of this act unless the defendant poses a risk to public safety.~~

~~5. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court shall not defer the defendant's sentence but may not assign~~ is a category A felony or a sexual offense that is punishable as a category B felony, the defendant ~~to the~~ is not eligible for assignment to the program, unless the prosecuting attorney stipulates to the assignment.

~~3. as a condition of probation pursuant to NRS 176A.400.~~

~~6. 5.~~ Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

~~4. 7. Upon~~

6. Except as otherwise provided in this subsection, upon fulfillment of the terms and conditions, the court shall discharge the defendant from probation ~~if applicable,~~ and dismiss the proceedings. If the defendant was previously convicted in this State or in any other jurisdiction of a felony or previously failed to complete a specialty court program, the court may, upon the defendant's fulfillment of the terms and conditions, discharge the defendant from probation and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail.

Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

**Sec. 28.** NRS 176A.265 is hereby amended to read as follows:

176A.265 1. After a defendant is discharged from probation or a case is dismissed pursuant to NRS 176A.260, the court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the court orders sealed the record of a defendant who is discharged from probation or whose case is dismissed pursuant to NRS 176A.260, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

**Sec. 29.** NRS 176A.280 is hereby amended to read as follows:

176A.280 1. A district court, justice court or municipal court may establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 174.032, ~~for~~ 176A.290 **or 176A.400 or section 19 of this act** if the defendant is a veteran or member of the military and:

(a) ~~Appears to suffer~~ **Is diagnosed after an in-person clinical assessment by a counselor who is licensed or certified to make such a diagnosis or a physician who is certified by the Board of Medical Examiners to make such a diagnosis, or by the results of a mental health or substance ~~abuse~~ use screening, as suffering** from:

(1) Mental illness, alcohol or drug ~~abuse~~ **use**, posttraumatic stress disorder or a traumatic brain injury, any of which appear to be related to military service, including, without limitation, any readjustment to civilian life which is necessary after combat service; or

(2) Military sexual trauma;

(b) Would benefit from assignment to the program; and

(c) Is not ineligible for assignment to the program pursuant to NRS 176A.287 or any other provision of law.

2. The assignment of a defendant to a program pursuant to this section must:

(a) Include the terms and conditions for successful completion of the program; **and**

(b) Provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program. ~~†; and~~

~~—(c) Be for a period of not less than 12 months.†~~

3. As used in this section:

(a) “Military sexual trauma” means psychological trauma that is the result of sexual harassment or an act of sexual assault that occurred while the veteran or member of the military was serving on active duty, active duty for training or inactive duty training.

(b) “Sexual harassment” means repeated, unsolicited verbal or physical contact of a sexual nature that is threatening in character.

**Sec. 29.5. NRS 176A.287 is hereby amended to read as follows:**

176A.287 1. Except as otherwise provided in subsection 2, a defendant is not eligible for assignment to a program of treatment established pursuant to NRS 176A.280 if:

~~(a) The offense committed by the defendant †;~~

~~(a) Has previously been assigned to such a program;† was a category A felony or a sexual offense that is punishable as a category B felony; or~~

(b) ~~†Was†~~ The defendant was discharged or released from the Armed Forces of the United States, a reserve component thereof or the National Guard under dishonorable conditions.

2. A defendant described in paragraph (b) of subsection 1 may be assigned to a program of treatment established pursuant to NRS 176A.280 if a justice court, municipal court or district court, as applicable, determines that extraordinary circumstances exist which warrant the assignment of the defendant to the program.

**Sec. 30. NRS 176A.290 is hereby amended to read as follows:**

176A.290 1. Except as otherwise provided in ~~subsection 2 and~~ NRS 176A.287, ~~††~~ and paragraph (a) of subsection 3 of section 19 of this act, if a defendant described in NRS 176A.280 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the district court, justice court or municipal court, as applicable, may ~~†, without†~~:

~~(a) Without~~ entering a judgment of conviction and with the consent of the defendant, suspend or defer further proceedings and place ~~assign~~ the defendant on probation upon terms and conditions ~~†to treatment†~~ that must include attendance and successful completion of a program established pursuant to NRS 176A.280 ~~††~~ if the court determines that the defendant is eligible for participation in such a program ††; or

~~(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280 if the court determines that the defendant is eligible for participation in such a program.~~

2. ~~Except as otherwise provided in subsection 3, the court shall defer the defendant's sentence in accordance with section 19 of this act unless the defendant poses a risk to public safety.~~

~~3. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the district court, justice court or municipal court, as applicable, shall not defer the defendant's sentence but may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the district court, justice court or municipal court, as applicable, shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.~~

~~3. as a condition of probation pursuant to NRS 176A.400.~~

~~4.] Upon violation of a term or condition:~~

(a) The district court, justice court or municipal court, as applicable, may impose sanctions against the defendant for the violation, but allow the defendant to remain in the program. Before imposing a sanction, the court shall notify the defendant of the violation and provide the defendant an opportunity to respond. Any sanction imposed pursuant to this paragraph:

(1) Must be in accordance with any applicable guidelines for sanctions established by the National Association of Drug Court Professionals or any successor organization; and

(2) May include, without limitation, imprisonment in a county or city jail or detention facility for a term set by the court, which must not exceed 25 days.

(b) The district court, justice court or municipal court, as applicable, may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(c) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the district court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

~~4-5.] 3.~~ Except as otherwise provided in this subsection and subsection ~~5, 6,] 4,~~ upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable, shall discharge the defendant from probation ~~if applicable,~~ and dismiss the proceedings. If the defendant was previously convicted in this State or in any other jurisdiction of a felony or previously failed to complete a specialty court program, the court may, upon the defendant's fulfillment of the terms and conditions, discharge the defendant from probation and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other

public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

~~§ 5-6-7~~ **4.** If the defendant was charged with a violation of NRS 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable, may conditionally dismiss the charges. If a court conditionally dismisses the charges, the court shall notify the defendant that the conditionally dismissed charges are a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail in a future case, but are not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Conditional dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

**Sec. 31.** NRS 176A.295 is hereby amended to read as follows:

176A.295 1. Except as otherwise provided in subsection 2, after a defendant is discharged from probation or a case is dismissed pursuant to NRS 176A.290, the justice court, municipal court or district court, as applicable, shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the defendant is charged with a violation of NRS 200.485, 484C.110 or 484C.120 and the charges are conditionally dismissed as provided in ~~subsection 5-6 of~~ NRS 176A.290, not sooner than 7 years after such a conditional dismissal and upon the filing of a petition by the defendant, the justice court, municipal court or district court, as applicable, shall order that all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order be sealed. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions

the court, for good cause shown, not to seal the records and requests a hearing thereon.

3. If the justice court, municipal court or district court, as applicable, orders sealed the record of a defendant ***who is discharged from probation, whose case is dismissed*** or whose charges were conditionally dismissed pursuant to NRS 176A.290, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the justice court, municipal court or district court, as applicable, in writing of its compliance with the order.

**Sec. 32.** NRS 176A.400 is hereby amended to read as follows:

176A.400 1. In issuing an order granting probation, ***a suspended sentence or a deferred sentence pursuant to section 19 of this act***, the court may fix the terms and conditions thereof, including, without limitation:

- (a) A requirement for restitution;
- (b) An order that the probationer dispose of all the weapons the probationer possesses; or
- (c) Any reasonable conditions to protect the health, safety or welfare of the community or to ensure that the probationer will appear at all times and places ordered by the court, including, without limitation:
  - (1) Requiring the probationer to remain in this State or a certain county within this State;
  - (2) Prohibiting the probationer from contacting or attempting to contact a specific person ***whom the probationer is prohibited from contacting by court order*** or from causing or attempting to cause another person to contact that person on the probationer's behalf;
  - (3) Prohibiting the probationer from entering a certain geographic area; or
  - (4) Prohibiting the probationer from engaging in specific conduct that ~~may be~~ ***is harmful to the probationer's own health, safety or welfare, or the health, safety or welfare of another person.***

2. In issuing an order granting probation, ***a suspended sentence or a deferred sentence pursuant to section 19 of this act*** to a person who is found guilty of a category C, D or E felony, the court may require the person as a condition of probation to participate in and complete to the satisfaction of the court any alternative program, treatment or activity deemed appropriate by the court ~~††~~, ***including, without limitation, any specialty court program.*** ~~†† used in this subsection, "specialty court program" has the meaning ascribed to it in NRS 176A.500.††~~

3. The court shall not suspend the execution of a sentence of imprisonment after the defendant has begun to serve it.

4. In placing any defendant on probation or in granting a defendant a suspended ***or deferred*** sentence, the court shall direct that the defendant be placed under the supervision of the Chief Parole and Probation Officer.

**Sec. 33.** NRS 176A.420 is hereby amended to read as follows:

176A.420 1. Upon the granting of probation to a person convicted of a felony or gross misdemeanor, the court may, when the circumstances warrant, require as a condition of probation that the probationer submit to periodic tests to determine whether the probationer is using any controlled substance. Any such use or any failure or refusal to submit to a test is a ground for revocation of probation. **violation for which a graduated sanction may be imposed in accordance with the system adopted by the Division pursuant to section 18 of this act.**

2. Any expense incurred as a result of a test must be paid from appropriations to the Division on claims as other claims against the State are paid.

**Sec. 34.** NRS 176A.500 is hereby amended to read as follows:

176A.500 1. ~~The~~ ***Except as otherwise provided in subsection 2, the*** period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) ~~Three years~~ ***Twelve months*** for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260, 176A.290 or 453.3363 ~~+~~ or ***section 22 of this act;***

(b) ~~Five years~~ ***Eighteen months*** for a ***category E*** felony ~~+~~;

(c) ***Twenty-four months for a category C or D felony; or***

(d) ***Thirty-six months for a category B felony.***

2. ***The court may extend the period of probation or suspension of sentence ordered pursuant to subsection 1 for a period of not more than 12 months if such an extension is necessary for the defendant to complete his or her participation in a specialty court program.***

3. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

~~3.~~ **4.** Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving the probationer a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection ~~4.~~ **5,** the parole and probation officer or the peace officer, after making an arrest, shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and



detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

~~{4}~~ 5. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person the officer arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

~~{5}~~ 6. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor must be allowed for the period of the probation a deduction of:

(a) Ten days from that period for each month the person serves and is current with any fee to defray the costs of his or her supervision charged by the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 213.1076 and with any payment of restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430. A person shall be deemed to be current with any such fee and payment of restitution for any given month if, during that month, the person makes at least the minimum monthly payment established by the court or, if the court does not establish a minimum monthly payment, by the Division.

(b) Except as otherwise provided in subsection ~~{7}~~ 8, 10 days from that period for each month the person serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.

~~{6}~~ 7. A person must be allowed a deduction pursuant to paragraph (a) or (b) of subsection ~~{5}~~ 6 regardless of whether the person has satisfied the requirements of the other paragraph and must be allowed a deduction pursuant to paragraphs (a) and (b) of subsection ~~{5}~~ 6 if the person has satisfied the requirements of both paragraphs of that subsection.

~~{7}~~ 8. A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program. Such a deduction must not exceed the length of time remaining on the person's period of probation.

~~{8. 9. As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580. section 20 of this act.}~~

**Sec. 35.** NRS 176A.630 is hereby amended to read as follows:

176A.630 **1.** If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 *and system of graduated sanctions adopted pursuant to section 18 of this act, as applicable*, and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. ~~The~~ ***If the court finds that the probationer committed a violation of a condition of probation by committing a new felony, ~~for~~ gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485 or violation of NRS 484C.110 or 484C.120 or by absconding, the*** court may:

~~1-1~~ **(a)** Continue or revoke the probation or suspension of sentence;

~~2-1~~ **(b)** Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

~~3-1~~ **(c)** Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

~~4-1~~ **(d)** Cause the sentence imposed to be executed; or

~~5-1~~ **(e)** Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this ~~subsection~~ **paragraph**. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this ~~subsection~~ **paragraph** is confidential.

2. *If the court finds that the probationer committed one or more technical violations of the conditions of probation, the court may:*

- (a) Continue the probation or suspension of sentence;*
- (b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;*
- (c) Temporarily revoke the probation or suspension of sentence and impose a term of imprisonment of not more than:
 
  - (1) Thirty days for the first temporary revocation;*
  - (2) Sixty days for the second temporary revocation; or*
  - (3) Ninety days for the third temporary revocation; or**
- (d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a fourth or subsequent revocation.*

3. *Notwithstanding any other provision of law, a probationer who is arrested and detained for committing a technical violation of the conditions of probation must be brought before the court not later than 15 calendar days after the date of arrest and detention. If a hearing is not held within 15 calendar days, the probationer must be released from detention and returned to probation status. Following a probationer's release from detention, the court may subsequently hold a hearing to determine if a technical violation has occurred. If the court finds that such a technical violation occurred, the court may:*

- (a) Continue probation and modify the terms and conditions of probation;*  
*or*
- (b) Fully or temporarily revoke probation in accordance with the provisions of subsection 2.*

4. *The commission of one of the following acts by a probationer must not, by itself, be used as the only basis for the revocation of probation:*

- (a) Consuming any alcoholic beverage.*
- (b) Testing positive on a drug or alcohol test.*
- (c) Failing to abide by the requirements of a mental health or substance ~~abuse~~ ~~use~~ treatment program.*
- (d) Failing to seek and maintain employment.*
- (e) Failing to pay any required fines or fees.*
- (f) Failing to report any changes in residence.*

5. *As used in this section:*

*(a) "Absconding" means failing to report or otherwise communicate with the Division for a continuous period of 60 days or more.*

*(b) "Technical violation" means any alleged violation of the conditions of probation that is not the commission of a new felony, ~~or~~ gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485 or violation of NRS 484C.110 or 484C.120 and does not constitute absconding. The term does not include termination from a specialty court program.*

**Sec. 36.** NRS 178.461 is hereby amended to read as follows:

178.461 1. If the proceedings against a defendant who is charged with any category A felony or a category B felony listed in subsection 6 are dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 10 judicial days after the dismissal, file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator pursuant to subsection 3. Except as otherwise provided in subsection 2, the court shall hold the hearing within 10 judicial days after the motion is filed with the court.

2. If the prosecuting attorney files a motion pursuant to subsection 1, the prosecuting attorney shall, not later than the date on which the prosecuting attorney files the motion, request from the Division a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility. The Division shall provide the requested comprehensive risk assessment to the court, the prosecuting attorney and counsel for the person not later than three judicial days before the hearing. If the person was charged with any category A felony other than murder or sexual assault or a category B felony listed in subsection 6 and the comprehensive risk assessment indicates that the person does not require the level of security provided by a forensic facility, the court shall dismiss the motion.

3. At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the person has a mental disorder, that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility, the court may order:

(a) The sheriff to take the person into protective custody and transport the person to a forensic facility; and

(b) That the person be committed to the custody of the Administrator and kept under observation until the person is eligible for conditional release pursuant to NRS 178.463 or until the maximum length of commitment described in subsection 4 or 7 has expired.

4. Except as otherwise provided in subsection 7, the length of commitment of a person pursuant to subsection 3 must not exceed 10 years, including any time that the person has been on conditional release pursuant to NRS 178.463.

5. At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

6. The provisions of subsection 1 apply to any of the following category B felonies:

(a) Voluntary manslaughter pursuant to NRS 200.050;

(b) Mayhem pursuant to NRS 200.280;

(c) Kidnapping in the second degree pursuant to NRS 200.330;

(d) Assault with a deadly weapon pursuant to NRS 200.471;

(e) Battery with a deadly weapon pursuant to NRS 200.481;

(f) Aggravated stalking pursuant to NRS 200.575;

(g) First degree arson pursuant to NRS 205.010;

(h) ~~Burglary~~ **Residential burglary** with a deadly weapon pursuant to NRS 205.060;

(i) Invasion of the home with a deadly weapon pursuant to NRS 205.067;

(j) Any category B felony involving the use of a firearm; and

(k) Any attempt to commit a category A felony.

7. If a person is within 6 months of the maximum length of commitment set forth in this subsection or subsection 4, as applicable, and:

(a) Was charged with murder or sexual assault; and

(b) Was committed to the custody of the Administrator pursuant to this subsection or subsection 3,

↳ the Administrator may file a motion to request an extension of the length of commitment for not more than 5 additional years.

8. The court may grant a motion for an extension of the length of commitment pursuant to subsection 7 if, at a hearing conducted on the motion, the court finds by clear and convincing evidence that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility.

9. At a hearing conducted pursuant to subsection 8, a person who is committed has the right to be represented by counsel. If the person does not have counsel, the court shall appoint an attorney to represent the person.

**Sec. 37.** NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 6 and NRS 176A.265, 176A.295, 179.247, 179.259, 201.354, 453.3365 and ~~458.330,~~ **sections 19 and 23 of this act**, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A felony, a crime of violence pursuant to NRS 200.408 or **residential** burglary pursuant to NRS 205.060 after 10 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) Except as otherwise provided in paragraphs (a) and (e), a category B, C or D felony after 5 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 2 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after 2 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later;

(f) Except as otherwise provided in paragraph (e), if the offense is punished as a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary

or extended order for protection, after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or

(g) Any other misdemeanor after 1 year from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by the petitioner's current, verified records received from the Central Repository for Nevada Records of Criminal History;

(b) If the petition references NRS 453.3365 , ~~for 458.330,~~ include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting attorney and any person having relevant evidence may testify and present evidence at any hearing on the petition.

4. If the prosecuting attorney who prosecuted the petitioner for the crime stipulates to the sealing of the records after receiving notification pursuant to subsection 3 and the court makes the findings set forth in subsection 5, the court may order the sealing of the records in accordance with subsection 5 without a hearing. If the prosecuting attorney does not stipulate to the sealing of the records, a hearing on the petition must be conducted.

5. If the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation and all other agencies

of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

6. A person may not petition the court to seal records relating to a conviction of:

(a) A crime against a child;

(b) A sexual offense;

(c) **Invasion of the home with a deadly weapon pursuant to NRS 205.067;**

~~(d)~~ **(d)** A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

~~(d)~~ **(e)** A violation of NRS 484C.430;

~~(e)~~ **(f)** A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;

~~(f)~~ **(g)** A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

~~(g)~~ **(h)** A violation of NRS 488.420 or 488.425.

7. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

8. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(17) An attempt to commit an offense listed in this paragraph.

**Sec. 38.** NRS 179.255 is hereby amended to read as follows:

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed, the prosecuting attorney having jurisdiction declined prosecution of the charges or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed;

(b) The court having jurisdiction in which the charges were declined for prosecution:

(1) Any time after the applicable statute of limitations has run;

(2) Any time 8 years after the arrest; or

(3) Pursuant to a stipulation between the parties; or

(c) The court in which the acquittal was entered, at any time after the date of the acquittal,

↪ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal, declination or acquittal.

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 or 2 must:

(a) Be accompanied by the petitioner's current, verified records received from the Central Repository for Nevada Records of Criminal History;

(b) Except as otherwise provided in paragraph (c), include the disposition of the proceedings for the records to be sealed;

(c) If the petition references NRS 453.3365, ~~for 458.330,~~ include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(d) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to



have possession of records of the arrest and of the proceedings leading to the dismissal, declination or acquittal and to whom the order to seal records, if issued, will be directed; and

(e) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific charges that were dismissed or of which the petitioner was acquitted; and

(3) Date of arrest relating to the specific charges that were dismissed or of which the petitioner was acquitted.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed, declined for prosecution or the acquittal was entered in a district court or justice court, the prosecuting attorney for the county; or

(b) If the charges were dismissed, declined for prosecution or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at any hearing on the petition.

5. Upon receiving a petition pursuant to subsection 2, the court shall notify:

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at any hearing on the petition.

6. If the prosecuting attorney stipulates to the sealing of the records after receiving notification pursuant to subsection 4 or 5 and the court makes the findings set forth in subsection 7 or 8, as applicable, the court may order the sealing of the records in accordance with subsection 7 or 8, as applicable, without a hearing. If the prosecuting attorney does not stipulate to the sealing of the records, a hearing on the petition must be conducted.

7. If the court finds that there has been an acquittal, that the prosecution was declined or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal, declination or dismissal which are in the custody of any agency of criminal justice or any public or private company, agency, official or other custodian of records in the State of Nevada.

8. If the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of any agency of

criminal justice or any public or private company, agency, official or other custodian of records in the State of Nevada.

9. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed pursuant to subsection 7, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

**Sec. 39.** NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or ~~458.330~~, **section 19 or 23 of this act**, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

**Sec. 40.** NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or ~~458.330~~, **section 19 or 23 of this act**:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the restoration of civil rights is lost,

damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has had his or her records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his or her records sealed in this State or any other state may present official documentation that the person has been restored to his or her civil rights or a court order restoring civil rights as proof that the person has been restored to the right to vote, to hold office and to serve as a juror.

**Sec. 41.** NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or ~~458.330~~ **section 19 or 23 of this act** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, subsection 9 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a ~~conviction~~ **proceeding** for which records have been sealed pursuant to NRS 174.034, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 201.354, 453.3365 or ~~458.330~~ **section 19 or 23 of this act** in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 179.2595, 453.3365 or ~~458.330~~ **section 19 or 23 of this act** for a conviction of another offense.

**Sec. 42.** NRS 4.075 is hereby amended to read as follows:

4.075 1. In a county whose population is less than 100,000, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$10 to be paid on the commencement of any action or proceeding in the justice court for which a fee is required and on the filing of any answer or appearance in any such action or proceeding for which a fee is required.

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the justice of the peace shall account for and pay over to the county treasurer any such fees collected by the justice of the peace during the preceding month for credit to an account for programs for the prevention and treatment of the ~~abuse~~ use of alcohol and drugs in the county general fund. The money in that account must be used only to support programs for the prevention or treatment of the ~~abuse~~ use of alcohol or drugs which may include, without limitation, any program ~~for~~ for the treatment ~~for the abuse~~ of drug or alcohol ~~for drugs abuse~~ use established in a judicial district pursuant to ~~NRS 453.580~~ section 20 of this act.

**Sec. 43.** NRS 4.3713 is hereby amended to read as follows:

4.3713 1. A justice court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to another justice court or a municipal court if:

(a) The case involves criminal conduct that occurred outside the limits of the county or township where the court is located and the defendant has appeared before a magistrate pursuant to NRS 171.178;

(b) Such a transfer is necessary to promote access to justice for the defendant and the justice court has noted its findings concerning that issue in the record; or

(c) The defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.250, 176A.280 ~~453.580~~ or ~~458.300~~ section 20 of this act, or to access other services located elsewhere in this State.

2. A justice court may not issue an order for the transfer of a case pursuant to paragraph (b) or (c) of subsection 1 until a plea agreement has been reached or the final disposition of the case, whichever occurs first.

3. An order issued by a justice court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the justice court or municipal court to which the case was transferred. If a justice court or municipal court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the justice court which sought the transfer.

**Sec. 44.** NRS 4.3715 is hereby amended to read as follows:

4.3715 1. A justice court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to a district court in this State if the defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.250, 176A.280 ~~453.580~~ or ~~458.300~~ section 20 of this act, or to access other services located elsewhere in this State.

2. A justice court may not issue an order for the transfer of a case pursuant to this section before a plea agreement has been reached or the disposition of the case, whichever occurs first.

3. An order issued by a justice court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the district court to which the case was transferred. If a district court refuses to accept the

transfer of a case pursuant to subsection 1, the case must be returned to the justice court which sought the transfer.

**Sec. 45.** NRS 4.373 is hereby amended to read as follows:

4.373 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a justice of the peace may suspend, for not more than 2 years, the sentence or a portion thereof of a person convicted of a misdemeanor. If the circumstances warrant, the justice of the peace may order as a condition of suspension, without limitation, that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct , or comply with any other condition, deemed appropriate by the justice of the peace;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the justice of the peace may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for the ~~abuse~~ use of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258 ~~; for in a batterers' intervention program that meets the requirements of subsection 12 of NRS 200.485;~~ or

(c) The programs set forth in paragraphs (a) and (b),

↪ and that the person comply with any other condition of suspension ordered by the justice of the peace.

3. Except as otherwise provided in this subsection, if a person is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the justice of the peace may suspend the sentence for not more than 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services; and

(b) Comply with any other condition of suspension ordered by the justice of the peace.

↪ The justice of the peace may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The justice of the peace may order reports from a person whose sentence is suspended at such times as the justice of the peace deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the justice of the peace, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

5. The justice of the peace may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

**Sec. 46.** NRS 4.374 is hereby amended to read as follows:

4.374 1. As soon as possible after a defendant is arrested or cited, the justice of the peace shall attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.

2. Before accepting a plea from a defendant or proceeding to trial, the justice of the peace shall:

(a) Address the defendant personally and ask the defendant if he or she is a veteran or a member of the military; and

(b) Determine whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.

3. If the defendant meets the qualifications of subsection 1 of NRS 176A.280, the justice court may, if the justice court has not established a program pursuant to NRS 176A.280 and, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or ~~453.580~~ **section 20 of this act.**

4. As used in this section:

(a) “Member of the military” has the meaning ascribed to it in NRS 176A.043.

(b) “Veteran” has the meaning ascribed to it in NRS 176A.090.

**Sec. 47.** NRS 5.0503 is hereby amended to read as follows:

5.0503 1. A municipal court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to a justice court or another municipal court if:

(a) The case involves criminal conduct that occurred outside the limits of the city where the court is located and the defendant has appeared before a magistrate pursuant to NRS 171.178;

(b) Such a transfer is necessary to promote access to justice for the defendant and the municipal court has noted its findings concerning that issue in the record; or

(c) The defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.250, 176A.280 ~~176A.580~~ or ~~176A.300~~, **section 20 of this act**, or to access other services located elsewhere in this State.

2. A municipal court may not issue an order for the transfer of a case pursuant to paragraph (b) or (c) of subsection 1 until a plea agreement has been reached or the final disposition of the case, whichever occurs first.

3. An order issued by a municipal court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the justice court or municipal court to which the case was transferred. If a justice court or municipal court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the municipal court which sought the transfer.

**Sec. 48.** NRS 5.0505 is hereby amended to read as follows:

5.0505 1. A municipal court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to a district court in this State if the defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to NRS 176A.250, 176A.280 ~~176A.580~~ or ~~176A.300~~, **section 20 of this act**, or to access other services located elsewhere in this State.

2. A municipal court may not issue an order transferring a case pursuant to this section before a plea agreement has been reached or the disposition of the case, whichever occurs first.

3. An order issued by a municipal court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the district court to which the case was transferred. If a district court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the municipal court which sought the transfer.

**Sec. 49.** NRS 5.055 is hereby amended to read as follows:

5.055 1. Except as otherwise provided in subsections 2 and 3, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence **or a portion thereof** of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension, **without limitation**, that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct , or comply with any other condition, deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the municipal judge may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for the ~~abuse~~ use of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258 ~~;~~ ; ~~for in a batterers' intervention program that meets the requirements of subsection 12 of NRS 200.485;~~ or

(c) The programs set forth in paragraphs (a) and (b),

↪ and that the person comply with any other condition of suspension ordered by the municipal judge.

3. Except as otherwise provided in this subsection, if a person is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030, the municipal judge may suspend the sentence for not more than 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services; and

(b) Comply with any other condition of suspension ordered by the municipal judge.

↪ The municipal judge may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The municipal judge may order reports from a person whose sentence is suspended at such times as the municipal judge deems appropriate concerning the compliance of the offender with the conditions of suspension.



If the offender complies with the conditions of suspension to the satisfaction of the municipal judge, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

5. The municipal judge may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

**Sec. 50.** NRS 5.057 is hereby amended to read as follows:

5.057 1. As soon as possible after a defendant is arrested or cited, the municipal judge shall attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant meets the qualifications of subsection 1 of NRS 176A.280. Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall:

(a) Address the defendant personally and ask the defendant if he or she is a veteran or a member of the military; and

(b) Determine whether the defendant meets the qualifications of subsection 1 of NRS 176A.280.

2. If the defendant meets the qualifications of subsection 1 of NRS 176A.280, the municipal court may, if the municipal court has not established a program pursuant to NRS 176A.280 and, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or ~~NRS 453.580~~ **section 20 of this act.**

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

**Sec. 51.** NRS 19.03135 is hereby amended to read as follows:

19.03135 1. In a county whose population is less than 100,000, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$10 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by the clerk of the court during the preceding month for credit to an account for programs for the prevention and treatment of the ~~abuse~~ **use** of alcohol and drugs in the county general fund. The money in that account must be used only to support programs for the prevention or treatment of the ~~abuse~~ **use** of alcohol or drugs which may include, without limitation, any program ~~to~~ **for** treatment ~~for the abuse~~ of **drug or** alcohol ~~for drug abuse~~ **use** established in a judicial district pursuant to ~~NRS 453.580~~ **section 20 of this act.**

**Sec. 51.5. NRS 193.130 is hereby amended to read as follows:**

193.130 1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.

(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.

(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.

(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, ~~or~~ **paragraph (a) of subsection 2 of NRS 453.336**, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. Such conditions of probation may include, but are not limited to, requiring the person to serve a term of confinement of not more than 1 year in the county jail. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute.

**Sec. 52. NRS 200.485 is hereby amended to read as follows:**

200.485 1. Unless a greater penalty is provided pursuant to subsection 2 or 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided pursuant to subsection 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.

3. Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

(a) A battery which constitutes domestic violence pursuant to NRS 33.018 that is punishable as a felony pursuant to paragraph (c) of subsection 1 or subsection 2; or

(b) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a),

↪ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000, but not more than \$5,000.

4. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, ~~but not more than 12 months,~~ at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258 ~~for in a batterers' intervention program that meets the requirements of subsection 12.~~

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for *not less than* 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258 ~~for in a batterers' intervention program that meets the requirements of subsection 12.~~

↪ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258 ~~for in a batterers' intervention program that meets the requirements of subsection 12, as applicable.~~

5. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

↪ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a) or (b) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

6. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of \$35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

7. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the ~~abuse~~ use of alcohol or drugs that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

8. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic

violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

9. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(a) As set forth in NRS 4.373 and 5.055; or

(b) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

10. In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

11. A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

12. ~~Any batterers' intervention program in which a court requires a person to participate pursuant to subsection 4 or NRS 4.373 or 5.055 must meet the following requirements:~~

~~(a) The primary purpose of the program must be victim safety.~~

~~(b) The program must ensure that the participant is held accountable for acts of domestic violence.~~

~~(c) The program must include weekly sessions in addition to appropriate intake, assessment and orientation programming.~~

~~(d) The content of the program must be based on a psychoeducational model that addresses the tactics of power and control used by one person over another.~~

~~(e) The program must be funded by the fees paid by participants and any local, state or federal program that funds batterers' intervention programs in whole or in part.~~

~~13.1~~ As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

~~Sec. 53. [NRS 202.360 is hereby amended to read as follows:~~

~~202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:~~

~~(a) Has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);~~

~~(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;~~

~~(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection 5 of NRS 200.575;~~

~~(d) Except as otherwise provided in NRS 33.031, is currently subject to:~~

~~(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or~~

~~(2) An equivalent order in any other state;~~

~~(e) Is a fugitive from justice;~~

~~(f) Is an unlawful user of, or addicted to, any controlled substance; or~~

~~(g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.~~

~~\* A person who violates the provisions of this subsection is guilty of a category [B] C felony and shall be punished [by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.] as provided in NRS 193.130.~~

~~2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:~~

~~— (a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;~~

~~— (b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;~~

~~— (c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;~~

~~— (d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or~~

~~— (e) Is illegally or unlawfully in the United States.~~

~~\* A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~3. As used in this section:~~

~~— (a) “Controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6).~~

~~— (b) “Firearm” includes any firearm that is loaded or unloaded and operable or inoperable. (Deleted by amendment.)~~

**Sec. 54.** NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. A person applying for a permit may submit one application and obtain one permit to carry all handguns owned by the person. The person must not be required to list and identify on the application each handgun owned by the person. A permit is valid for any handgun which is owned or thereafter obtained by the person to whom the permit is issued.

3. Except as otherwise provided in this section, the sheriff shall issue a permit to any person who is qualified to possess a handgun under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is:

(1) Twenty-one years of age or older; or

(2) At least 18 years of age but less than 21 years of age if the person:

(I) Is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard; or

(II) Was discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under honorable conditions;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with handguns by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

→ Such a course must include instruction in the use of handguns and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

4. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has : ~~been:~~

(1) ~~Convicted~~ **Been convicted** of violating the provisions of NRS 484C.110; or

(2) ~~Committed for~~ **Participated in a program of** treatment pursuant to ~~NRS 458.290 sections 20 to 458.350, 23, inclusive~~ **of this act.**

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.



(k) Has been discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under conditions other than honorable conditions and is less than 21 years of age.

5. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 4 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

6. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

7. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) If the applicant is a person described in subparagraph (2) of paragraph (a) of subsection 3, proof that the applicant:

(1) Is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, as evidenced by his or her current military identification card; or

(2) Was discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under honorable conditions, as evidenced by his or her DD Form 214, "Certificate of

Release or Discharge from Active Duty,” or other document of honorable separation issued by the United States Department of Defense;

(g) A nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and

(h) A nonrefundable fee set by the sheriff not to exceed \$60.

**Sec. 55.** NRS 205.060 is hereby amended to read as follows:

205.060 1. ~~Except as otherwise provided in subsection 5, a~~ A person who by day or night, unlawfully enters or unlawfully remains in any ~~house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car.~~ :

(a) *Dwelling* with the intent to commit grand or petit larceny, assault or battery on any person or any felony ~~or to obtain money or property by false pretenses,~~ is guilty of *residential burglary*.

(b) *Business structure with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary of a business.*

(c) *Motor vehicle, or any part thereof, with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary of a motor vehicle.*

(d) *Structure other than a dwelling, business structure or motor vehicle with the intent to commit grand or petit larceny, assault or battery on any person or any felony is guilty of burglary ~~of a structure.~~*

2. Except as otherwise provided in this section, a person convicted of ~~burglary~~ :

(a) *Burglary of a motor vehicle is guilty of ~~F~~*

~~(1) For a first or second conviction, a gross misdemeanor.~~

~~(2) For a third or subsequent conviction,~~ *a category E felony and shall be punished as provided in NRS 193.130.*

(b) *Burglary of a structure is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

(c) *Burglary of a business is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

(d) *Residential burglary* is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years. ~~and may be further punished by a fine of not more than \$10,000. A~~

3. *If mitigating circumstances exist, a person who is convicted of residential burglary ~~and who~~ may be released on probation and granted a suspension of sentence if the person has not previously been convicted of residential burglary or another crime involving the ~~forcible~~ unlawful entry or invasion of a dwelling. ~~must not be released on probation or granted a~~*

suspension of sentence. ~~or has previously been convicted of any such crime only once.~~

~~3.]~~ 4. Whenever ~~1a]~~ any burglary *pursuant to this section* is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

~~4.]~~ 5. A person convicted of any burglary *pursuant to this section* who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the *dwelling*, structure *or motor vehicle* or upon leaving the *dwelling*, structure ~~1]~~ *or motor vehicle*, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

~~5.]~~ The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:

~~(a) Two or more times for committing petit larceny within the immediately preceding 7 years; or~~

~~(b) Of a felony.]~~

6. *As used in this section:*

(a) *“Business structure” means any structure or building, the primary purpose of which is to carry on any lawful effort for a business, including, without limitation, any business with an educational, industrial, benevolent, social or political purpose, regardless of whether the business is operated for profit.*

(b) *“Dwelling” means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit:*

*(1) In which any person lives; or*

*(2) Which is customarily used by a person for overnight accommodations,*

*↪ regardless of whether the person is inside at the time of the offense.*

(c) *“Motor vehicle” means any motorized craft or device designed for the transportation of a person or property across land or water or through the air which does not qualify as a dwelling or business structure pursuant to this section.*

(d) *“Unlawfully enters or unlawfully remains” means for a person to enter or remain in a dwelling, structure or motor vehicle or any part thereof including, without limitation, under false pretenses, when the person is not licensed or privileged to do so, without regard to the purpose or intent of the*

person. For purposes of this definition, a license or privilege to enter or remain in a part of a dwelling, structure or motor vehicle that is open to the public is not a license or privilege to enter or remain in a part of the dwelling, structure or motor vehicle that is not open to the public.

Sec. 56. NRS 205.067 is hereby amended to read as follows:

205.067 1. A person who, by day or night, forcibly enters [an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a ] ~~is guilty of invasion of the home if the person, while in possession of any firearm or deadly weapon, unlawfully enters or unlawfully remains in] a dwelling without permission of the owner, resident or lawful occupant, whether or not a [~~

~~(a) At any time after sunset and before sunrise; or~~

~~(b) While a] person [other than the offender and any accomplice] is present [in the dwelling] at the [any] time of [during] the entry, is guilty of invasion of the home. [commission of the offense.]~~

2. A person convicted of invasion of the home is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year ~~[2 years]~~ and a maximum term of not more than 10 ~~[18]~~ years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of invasion of the home and who has previously been convicted of *any* burglary *pursuant to NRS 205.060* or invasion of the home must not be released on probation or granted a suspension of sentence.

3. Whenever an invasion of the home is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car traveled during the time the invasion was committed.

4. A person convicted of invasion of the home who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

5. As used in this section:

(a) “Dwelling” has the meaning ascribed to it in NRS 205.060.

(b) “Forcibly enters” means the entry of an inhabited dwelling involving any act of physical force resulting in damage to the structure. [“Dwelling” has the meaning ascribed to it in NRS 205.060.

~~(b) “Inhabited dwelling” means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car in which the owner or other lawful~~

occupant resides. ~~“Unlawfully enters or unlawfully remains” has the meaning ascribed to it in NRS 205.060.~~

Sec. 57. ~~NRS 205.0813 is hereby amended to read as follows:~~

~~205.0813 1. A person who forcibly enters an uninhabited or vacant dwelling, knows or has reason to believe that such entry is without permission of the owner of the dwelling or an authorized representative of the owner and has the intent to take up residence or provide a residency to another therein is guilty of housebreaking.~~

~~2. A person is presumed to know that an entry described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:~~

~~(a) Is notarized or is signed by an authorized agent of the owner who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; and~~

~~(b) Includes the current address and telephone number of the owner or his or her authorized representative.~~

~~3. A person convicted of housebreaking is guilty of:~~

~~(a) For a first offense, a [gross] misdemeanor; and~~

~~(b) For a second and any subsequent offense, a [category D felony and shall be punished as provided in NRS 193.130.] gross misdemeanor.~~

~~4. A person convicted of housebreaking and who has previously been convicted three or more times of housebreaking must not be released on probation or granted a suspension of sentence.~~

~~5. As used in this section, “forcibly enters” means an entry involving:~~

~~(a) Any act of physical force resulting in damage to the structure; or~~

~~(b) The changing or manipulation of a lock to gain access.] (Deleted by amendment.)~~

Sec. 58. NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute and unless the provisions of NRS 205.08345 apply under the circumstances, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft ~~is~~ :

(a) ~~Is less than \$650, \$1,000,~~ \$1,200, the person who committed the theft is guilty of a misdemeanor.

~~3. If the value of the property or services involved in the theft is \$650]~~

(b) ~~Is \$1,000 or more but less than \$2,000, the person who committed the theft is guilty of a gross misdemeanor.~~

~~(c) Is \$2,000, \$1,200 or more but less than \$5,000, the person who committed the theft is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~[(4)]~~ ***(c) Is \$5,000*** or more but less than ~~[\$3,500,]~~ ***\$25,000***, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~[4.]~~ ~~If the value of the property or services involved in the theft is \$3,500]~~  
~~[(e)]~~ ***(d) Is \$25,000*** or more ~~[,]~~ ***but less than \$100,000***, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

~~[5.]~~ ~~[(f)]~~ ***(e) Is \$100,000 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.***

3. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

**Sec. 59.** NRS 205.130 is hereby amended to read as follows:

205.130 1. Except as otherwise provided in this subsection and subsections 2 and 3, a person who willfully, with an intent to defraud, draws or passes a check or draft to obtain:

- (a) Money;
- (b) Delivery of other valuable property;
- (c) Services;
- (d) The use of property; or
- (e) Credit extended by any licensed gaming establishment,

↪ drawn upon any real or fictitious person, bank, firm, partnership, corporation or depository, when the person has insufficient money, property or credit with the drawee of the instrument to pay it in full upon its presentation, is guilty of a misdemeanor. If that instrument, or a series of instruments passed in the State during a period of 90 days, is in the amount of ~~[\$650–\$2,000]~~ ***\$1,200*** or more, the person is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. A person who was previously convicted three times of a misdemeanor under the provisions of this section, or of an offense of a similar nature, in this State or any other state, or in a federal jurisdiction, who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

3. A person who willfully issues any check or draft for the payment of wages in excess of ~~[\$650, \$2,000,]~~ ***\$1,200***, when the person knows he or she has insufficient money or credit with the drawee of the instrument to pay the instrument in full upon presentation is guilty of a gross misdemeanor.

4. For the purposes of this section, “credit” means an arrangement or understanding with a person, firm, corporation, bank or depository for the payment of a check or other instrument.

**Sec. 60.** NRS 205.134 is hereby amended to read as follows:

205.134 1. A notice in boldface type which is clearly legible and is in substantially the following form must be posted in a conspicuous place in every principal and branch office of every bank and in every place of business in which retail selling is conducted:

The issuance of a check or draft without sufficient money or with intent to defraud is punishable by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, and the issuance of such a check or draft in an amount of ~~(\$650-\$2,000)~~ \$1,200 or more or by a person who previously has been convicted three times of this or a similar offense is punishable as a category D felony as provided in NRS 193.130.

2. Failure of the owner, operator or manager of a bank or other place of business to post the sign required by this section is not a defense to charge of a violation of NRS 205.130.

**Sec. 60.3.** NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to ~~205.2707,~~ 205.2705, inclusive, unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

**Sec. 60.7.** NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;
2. Money, negotiable instruments and other items listed in NRS 205.260;
3. Livestock, domesticated animals and domesticated birds; and
4. Any other item of value, whether or not the item is listed in NRS 205.2175 to ~~205.2707,~~ 205.2705, inclusive.

**Sec. 61.** NRS 205.220 is hereby amended to read as follows:

205.220 Except as otherwise provided in NRS 205.226 and 205.228, a person commits grand larceny if the person:

1. Intentionally steals, takes and carries away, leads away or drives away:
  - (a) Personal goods or property, with a value of ~~(\$650-\$2,000)~~ \$1,200 or more, owned by another person;
  - (b) Bedding, furniture or other property, with a value of ~~(\$650-\$2,000)~~ \$1,200 or more, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or
  - (c) Real property, with a value of ~~(\$650-\$2,000)~~ \$1,200 or more, that the person has converted into personal property by severing it from real property owned by another person.

2. Uses a card or other device for automatically withdrawing or transferring money in a financial institution to obtain intentionally money to which the person knows he or she is not entitled.

3. Intentionally steals, takes and carries away, leads away, drives away or entices away:

(a) One or more head of livestock owned by another person; or  
 (b) One or more domesticated animals or domesticated birds, with an aggregate value of ~~[\$650-\$2,000]~~ \$1,200 or more, owned by another person.

4. With the intent to defraud, steal, appropriate or prevent identification:

(a) Marks or brands, causes to be marked or branded, alters or defaces a mark or brand, or causes to be altered or defaced a mark or brand upon one or more head of livestock owned by another person;

(b) Sells or purchases the hide or carcass of one or more head of livestock owned by another person that has had a mark or brand cut out or obliterated;

(c) Kills one or more head of livestock owned by another person but running at large, whether or not the livestock is marked or branded; or

(d) Kills one or more domesticated animals or domesticated birds, with an aggregate value of ~~[\$650-\$2,000]~~ \$1,200 or more, owned by another person but running at large, whether or not the animals or birds are marked or branded.

**Sec. 62.** NRS 205.222 is hereby amended to read as follows:

205.222 1. Unless a greater penalty is imposed by a specific statute, a person who commits grand larceny in violation of NRS 205.220 shall be punished pursuant to the provisions of this section.

2. If the value of the property involved in the grand larceny ~~is~~ :

*(a) Is less than \$5,000, the person who committed the grand larceny is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

*(b) Is \$5,000 or more but less than ~~[\$3,500,]~~ \$25,000, the person who committed the grand larceny is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

~~3. If the value of the property involved in the grand larceny is \$3,500]~~

*(c) Is \$25,000 or more ~~+~~ but less than \$100,000, the person who committed the grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.*

~~4.]~~ *(d) Is \$100,000 or more, the person who committed the grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.*

3. In addition to any other penalty, the court shall order the person who committed the grand larceny to pay restitution.

~~5.]~~ 4. If the grand larceny involved a sale in violation of subsection 3 or 4 of NRS 205.220, all proceeds from the sale are subject to forfeiture.

**Sec. 63.** NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. ~~Except as otherwise provided in subsection 3, a~~ A person who commits grand larceny of a motor vehicle is guilty of ~~it~~ :



(a) A category C felony and shall be punished as provided in NRS 193.130.

~~{3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$3,500-~~

~~(a) Is \$25,000 or more, but less than \$100,000, the person who committed the grand larceny of the motor vehicle is guilty of]~~

(b) For a second or subsequent offense within 5 years, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than ~~10~~ 6 years, and by a fine of not more than ~~\$10,000~~.

~~(b) Is \$100,000 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.~~

~~4.] \$5,000.~~

3. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

**Sec. 64.** NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228, 475.105 and 501.3765, a person commits petit larceny ~~in the second degree]~~ if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than ~~[\$650, \$1,000,]~~ \$1,200, owned by another person;

(2) Bedding, furniture or other property, with a value of less than ~~[\$650, \$1,000,]~~ \$1,200, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or

(3) Real property, with a value of less than ~~[\$650, \$1,000,]~~ \$1,200, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than ~~[\$650, \$1,000,]~~ \$1,200, owned by another person.

2. Unless a greater penalty is provided pursuant to NRS 205.267, a  
~~[Except as otherwise provided in NRS 205.220, 205.226, 205.228, 475.105 and 501.3765, a person commits petit larceny in the first degree if the person:~~

~~(a) Intentionally steals, takes and carries away, leads away or drives away:~~

~~(1) Personal goods or property, with a value of \$1,000 or more but less than \$2,000, owned by another person;~~

~~(2) Bedding, furniture or other property, with a value of \$1,000 or more but less than \$2,000, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or~~

~~(3) Real property, with a value of \$1,000 or more but less than \$2,000, that the person has converted into personal property by severing it from real property owned by another person.~~

~~(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of \$1,000 or more but less than \$2,000, owned by another person.~~

~~3. A~~ person who commits petit larceny ~~is~~

~~(a) In the second degree~~ is guilty of a misdemeanor.

~~(b) In the first degree is guilty of a gross misdemeanor.~~

~~4. 3.~~ In addition to any other penalty, the court shall order the person to pay restitution.

**Sec. 64.5. NRS 205.251 is hereby amended to read as follows:**

205.251 For the purposes of NRS 205.2175 to ~~205.2707,~~ 205.2705, inclusive:

1. The value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.

2. The value of property involved in larceny offenses committed by one or more persons pursuant to a scheme or continuing course of conduct may be aggregated in determining the grade of the larceny offenses.

**Sec. 65. NRS 205.267 is hereby amended to read as follows:**

205.267 1. A person who intentionally steals, takes and carries away scrap metal or utility property with a value of less than ~~650 \$1,000~~ \$1,200 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal or utility property with a value of ~~650 \$1,000~~ \$1,200 or more within a period of 90 days is guilty of:

~~(a) If the value of the scrap metal or utility property taken is \$1,000 or more but less than \$3,500, \$2,000, a category C felony and shall be punished as provided in NRS 193.130; or gross misdemeanor.~~

~~(b) If the value of the scrap metal or utility property taken is \$3,500 \$2,000~~ \$1,200 or more ~~but less than \$5,000, a category D felony and shall be punished as provided in NRS 193.130.~~

~~(c) (b) If the value of the scrap metal or utility property taken is \$5,000 or more but less than \$25,000, a category C felony and shall be punished as provided in NRS 193.130.~~

~~(d) (c) If the value of the scrap metal or utility property taken is \$25,000 or more but less than \$100,000, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.~~

~~(e) (d) If the value of the scrap metal or utility property taken is \$100,000 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year~~

*and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.*

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution and:

- (a) For a first offense, to perform 100 hours of community service.
- (b) For a second offense, to perform 200 hours of community service.
- (c) For a third or subsequent offense, to perform up to 300 hours of community service for up to 1 year, as determined by the court.

4. In determining the value of the scrap metal or utility property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal or utility property must be added to the value of the property.

5. As used in this section:

- (a) "Scrap metal" has the meaning ascribed to it in NRS 647.017.
- (b) "Utility property" has the meaning ascribed to it in NRS 202.582.

**Sec. 66.** NRS 205.270 is hereby amended to read as follows:

205.270 1. A person who, under circumstances not amounting to robbery, with the intent to steal or appropriate to his or her own use, takes property from the person of another, without the other person's consent, is guilty of ~~1-~~

- ~~(a) If the value of the property taken is less than \$3,500, **\$25,000,** a category C felony and shall be punished as provided in NRS 193.130. ~~1-~~~~
- ~~(b) If the value of the property taken is \$3,500 **\$25,000** or more, **but less than \$100,000,** a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000. ~~;~~ **or**~~
- ~~(c) **If the value of the property taken is \$100,000 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.**~~

2. In addition to any other penalty, the court shall order the person to pay restitution.

3. The court shall not grant probation to or suspend the sentence of any person convicted of violating subsection 1 if the person from whom the property was taken has any infirmity caused by age or other physical condition.

**Sec. 67.** ~~[NRS 205.2707 is hereby amended to read as follows:~~

~~205.2707 1. A person who intentionally steals, takes and carries away property of the value of ~~[\$650]~~ **\$1,000** or more from vending machines within a period of 1 week is guilty of:~~

- ~~(a) If the value of the property taken is less than ~~[\$3,500,]~~ **\$2,000,** a gross misdemeanor;~~
- ~~(b) **If the value of the property taken is \$2,000 or more but less than \$5,000,** a category D felony and shall be punished as provided in NRS 193.130;~~

~~—(c) If the value of the property taken is \$5,000 or more but less than \$25,000, a category C felony and shall be punished as provided in NRS 193.130; for~~

~~—(b) (d) If the value of the property taken is [3,500] \$25,000 or more [,] but less than \$100,000, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000 [.] ; or~~

~~—(e) If the value of the property taken is \$100,000 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.~~

~~—2—~~ In addition to any other penalty, the court shall order the person to pay restitution.

~~—3—~~ In determining the value of the property taken, the cost of repairing damaged vending machines and replacing any machine, if necessary, must be added to the value of the property. **(Deleted by amendment.)**

**Sec. 68.** NRS 205.273 is hereby amended to read as follows:

205.273 1. A person commits an offense involving a stolen vehicle if the person:

(a) With the intent to procure or pass title to a motor vehicle which the person knows or has reason to believe has been stolen, receives or transfers possession of the vehicle from or to another person; or

(b) Has in his or her possession a motor vehicle which the person knows or has reason to believe has been stolen.

2. The provisions of subsection 1 do not apply to an officer of the law if the officer is engaged in the performance of his or her duty as an officer at the time of the receipt, transfer or possession of the stolen vehicle.

3. ~~Except as otherwise provided in subsection 4, a~~ **A** person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. ~~If the prosecuting attorney proves that the value of the vehicle involved is \$3,500—~~

~~—(a) Is \$25,000 or more, but less than \$100,000, the person who violated the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.~~

~~—(b) Is \$100,000 or more, the person who violated the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.~~

~~—5—~~ In addition to any other penalty, the court shall order the person to pay restitution.

~~16. For the purposes of this section, the value of a vehicle shall be deemed to be the highest value attributable to the vehicle by any reasonable standard.~~

**Sec. 69.** NRS 205.275 is hereby amended to read as follows:

205.275 1. Except as otherwise provided in NRS 501.3765, a person commits an offense involving stolen property if the person, for his or her own gain or to prevent the owner from again possessing the owner's property, buys, receives, possesses or withholds property:

- (a) Knowing that it is stolen property; or
- (b) Under such circumstances as should have caused a reasonable person to know that it is stolen property.

2. A person who commits an offense involving stolen property in violation of subsection 1:

(a) If the value of the property is less than ~~[\$650, \$1,000,]~~ \$1,200, is guilty of a misdemeanor;

~~(b) If the value of the property is \$1,000 or more but less than \$2,000, is guilty of a gross misdemeanor;~~

~~(c) If the value of the property is ~~[\$2,000]~~ \$1,200 or more but less than \$5,000, is guilty of a category D felony and shall be punished as provided in NRS 193.130;~~

~~(d) (c) If the value of the property is ~~[\$650]~~ \$5,000 or more but less than ~~[\$3,500,]~~ \$25,000, is guilty of a category C felony and shall be punished as provided in NRS 193.130; ~~or~~~~

~~(e) (e) (d) If the value of the property is ~~[\$3,500]~~ \$25,000 or more but less than \$100,000 or if the property is a firearm, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000 ~~}; or~~~~

~~(f) (e) If the value of the property is \$100,000 or more, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.~~

3. In addition to any other penalty, the court shall order the person to pay restitution.

4. A person may be prosecuted and convicted pursuant to this section whether or not the principal is or has been prosecuted or convicted.

5. Possession by any person of three or more items of the same or a similar class or type of personal property on which a permanently affixed manufacturer's serial number or manufacturer's identification number has been removed, altered or defaced, is prima facie evidence that the person has violated this section.

6. For the purposes of this section, the value of the property involved shall be deemed to be the highest value attributable to the property by any reasonable standard.

7. As used in this section, "stolen property" means property that has been taken from its owner by larceny, robbery, burglary, embezzlement, theft or any

other offense that is a crime against property, whether or not the person who committed the taking is or has been prosecuted or convicted for the offense.

**Sec. 70.** NRS 205.365 is hereby amended to read as follows:

205.365 A person, after once selling, bartering or disposing of any tract of land, town lot, or executing any bond or agreement for the sale of any land or town lot, who again, knowingly and fraudulently, sells, barter or disposes of the same tract of land or lot, or any part thereof, or knowingly and fraudulently executes any bond or agreement to sell, barter or dispose of the same land or lot, or any part thereof, to any other person, for a valuable consideration, shall be punished:

1. Where the value of the property involved is ~~1~~ ~~\$650-\$2,000~~ \$1,200 or more, for a category ~~C~~ **D** felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value of the property is less than ~~1~~ ~~\$650-\$2,000~~ \$1,200, for a misdemeanor.

**Sec. 71.** NRS 205.370 is hereby amended to read as follows:

205.370 A person who, by false representations of his or her own wealth, or mercantile correspondence and connections, obtains a credit thereby and defrauds any person of money, goods, chattels or any valuable thing, or if a person causes or procures another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtains credit and thereby fraudulently gets into the possession of goods, wares or merchandise, or other valuable thing, is a swindler, and must be sentenced to return the property fraudulently obtained, if it can be done, or to pay restitution and shall be punished:

1. Where the amount of money or the value of the chattels, goods, wares or merchandise, or other valuable thing so obtained is ~~1~~ ~~\$650-\$2,000~~ \$1,200 or more, for a category ~~C~~ **D** felony as provided in NRS 193.130.

2. Otherwise, for a misdemeanor.

**Sec. 72.** NRS 205.377 is hereby amended to read as follows:

205.377 1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false or omitted;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

↪ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than ~~1~~ ~~\$650-\$2,000~~ \$1,200.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

**Sec. 73.** NRS 205.380 is hereby amended to read as follows:

205.380 1. A person who knowingly and designedly by any false pretense obtains from any other person any chose in action, money, goods, wares, chattels, effects or other valuable thing, including rent or the labor of another person not his or her employee, with the intent to cheat or defraud the other person, is a cheat, and, unless otherwise prescribed by law, shall be punished:

(a) *If the value of the thing or labor fraudulently obtained was less than ~~[\$1,000,] \$1,200, for a misdemeanor, and must be sentenced to restore the property fraudulently obtained if it can be done, or tender payment for rent or labor.~~*

(b) ~~If the value of the thing or labor fraudulently obtained was \$1,000 or more but less than \$2,000, for a gross misdemeanor.~~

~~(c) If the value of the thing or labor fraudulently obtained was ~~[\$2,000] \$1,200 or more but less than \$5,000, for a category D felony as provided in NRS 193.130.~~~~

~~(d) (c) If the value of the thing or labor fraudulently obtained was \$5,000 or more but less than \$25,000, for a category C felony as provided in NRS 193.130.~~

~~(e) (d) If the value of the thing or labor fraudulently obtained was ~~[\$650] \$25,000 or more but less than \$100,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000. or by both fine and imprisonment.~~~~

~~(f) (e) If the value of the thing or labor fraudulently obtained was \$100,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.~~

2. In addition to any other penalty ~~set forth in paragraph (b), (c), (d) or (e) or (f)~~ of subsection 1, the court shall order the person to pay restitution.

~~(b) If the value of the thing or labor fraudulently obtained was less than \$650, for a misdemeanor, and must be sentenced to restore the property fraudulently obtained, if it can be done, or tender payment for rent or labor.~~

~~2.1~~ 3. For the purposes of this section, it is prima facie evidence of an intent to defraud if the drawer of a check or other instrument given in payment for:

- (a) Property which can be returned in the same condition in which it was originally received;
- (b) Rent; or
- (c) Labor performed in a workmanlike manner whenever a written estimate was furnished before the labor was performed and the actual cost of the labor does not exceed the estimate,

↳ stops payment on that instrument and fails to return or offer to return the property in that condition, or to specify in what way the labor was deficient within 5 days after receiving notice from the payee that the instrument has not been paid by the drawee.

~~3.1~~ 4. The notice must be sent to the drawer by certified mail, return receipt requested, at the address shown on the instrument. The notice must include a statement of the penalties set forth in this section. Return of the notice because of nondelivery to the drawer raises a rebuttable presumption of the intent to defraud.

~~4.1~~ 5. A notice in boldface type clearly legible and in substantially the following form must be posted in a conspicuous place in every principal and branch office of every bank and in every place of business in which retail selling is conducted or labor is performed for the public and must be furnished in written form by a landlord to a tenant:

The stopping of payment on a check or other instrument given in payment for property which can be returned in the same condition in which it was originally received, rent or labor which was completed in a workmanlike manner, and the failure to return or offer to return the property in that condition or to specify in what way the labor was deficient within 5 days after receiving notice of nonpayment is punishable:

1. ***If the value of the property, rent or labor fraudulently obtained was less than ~~[\$1,000,] \$1,200,~~ as a misdemeanor by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment.***

2. ~~***If the value of the property, rent or labor fraudulently obtained was \$1,000 or more but less than \$2,000, as a gross misdemeanor by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$2,000, or by both fine and imprisonment.***~~

~~3.1~~ ***If the value of the property, rent or labor fraudulently obtained was ~~[\$2,000] \$1,200~~ or more but less than \$5,000, as a category D felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.***

~~4.1~~ 3. ***If the value of the property, rent or labor fraudulently obtained was \$5,000 or more but less than \$25,000, as a category C***



*felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.*

~~5.7~~ 4. If the value of the property, rent or labor fraudulently obtained was ~~less than \$650~~ **\$25,000** or more ~~but less than \$100,000~~, as a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than ~~6~~ **10** years, ~~or~~ **and** by a fine of not more than \$10,000. ~~or by both fine and imprisonment.~~

~~2.6.7~~ 5. If the value of the property, rent or labor ~~so~~ fraudulently obtained was ~~less than \$650, as a misdemeanor~~ **\$100,000 or more, as a category B felony** by imprisonment in the ~~county jail~~ **state prison** for a **minimum term of not ~~more~~ less than ~~6 months, or~~ 1 year and a maximum term of not more than 20 years, and** by a fine of not more than ~~\$1,000, or by both fine and imprisonment.~~ **\$15,000.**

**Sec. 74.** NRS 205.415 is hereby amended to read as follows:

205.415 A person who sells one or more tickets to any ball, benefit or entertainment, or asks or receives any subscription or promise thereof, for the benefit or pretended benefit of any person, association or order, without being authorized thereto by the person, association or order for whose benefit or pretended benefit it is done, shall be punished:

1. Where the amount received from such sales, subscriptions or promises totals ~~\$650-\$2,000~~ **\$1,200** or more, for a category ~~C~~ **D** felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Otherwise, for a misdemeanor.

**Sec. 75.** NRS 205.445 is hereby amended to read as follows:

205.445 1. It is unlawful for a person:

(a) To obtain food, foodstuffs, lodging, merchandise or other accommodations at any hotel, inn, trailer park, motor court, boardinghouse, rooming house, lodging house, furnished apartment house, furnished bungalow court, furnished automobile camp, eating house, restaurant, grocery store, market or dairy, without paying therefor, with the intent to defraud the proprietor or manager thereof;

(b) To obtain credit at a hotel, inn, trailer park, motor court, boardinghouse, rooming house, lodging house, furnished apartment house, furnished bungalow court, furnished automobile camp, eating house, restaurant, grocery store, market or dairy by the use of any false pretense; or

(c) After obtaining credit, food, lodging, merchandise or other accommodations at a hotel, inn, trailer park, motor court, boardinghouse, rooming house, lodging house, furnished apartment house, furnished bungalow court, furnished automobile camp, eating house, restaurant, grocery store, market or dairy, to abscond or surreptitiously, or by force, menace or threats, to remove any part of his or her baggage therefrom, without paying for the food or accommodations.

2. A person who violates any of the provisions of subsection 1 shall be punished:

(a) Where the total value of the credit, food, foodstuffs, lodging, merchandise or other accommodations received from any one establishment is ~~1,650~~ ~~\$2,000~~ \$1,200 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

(b) Otherwise, for a misdemeanor.

3. Proof that lodging, food, foodstuffs, merchandise or other accommodations were obtained by false pretense, or by false or fictitious show or pretense of any baggage or other property, or that the person refused or willfully neglected to pay for the food, foodstuffs, lodging, merchandise or other accommodations, or that the person gave in payment for the food, foodstuffs, lodging, merchandise or other accommodations negotiable paper on which payment was refused, or that the person absconded without paying or offering to pay for the food, foodstuffs, lodging, merchandise or other accommodations, or that the person surreptitiously removed or attempted to remove his or her baggage, is prima facie evidence of the fraudulent intent mentioned in this section.

4. This section does not apply where there has been an agreement in writing for delay in payment for a period to exceed 10 days.

**Sec. 76.** ~~NRS 205.4765 is hereby amended to read as follows:~~

~~205.4765 1. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:~~

- ~~(a) Modifies;~~
  - ~~(b) Damages;~~
  - ~~(c) Destroys;~~
  - ~~(d) Discloses;~~
  - ~~(e) Uses;~~
  - ~~(f) Transfers;~~
  - ~~(g) Conceals;~~
  - ~~(h) Takes;~~
  - ~~(i) Retains possession of;~~
  - ~~(j) Copies;~~
  - ~~(k) Obtains or attempts to obtain access to, permits access to or causes to be accessed, or~~
  - ~~(l) Enters,~~
- ~~data, a program or any supporting documents which exist inside or outside a computer, system or network is guilty of a misdemeanor.~~

~~2. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:~~

- ~~(a) Modifies;~~
- ~~(b) Destroys;~~
- ~~(c) Uses;~~
- ~~(d) Takes;~~

- ~~— (e) Damages;~~
- ~~— (f) Transfers;~~
- ~~— (g) Conceals;~~
- ~~— (h) Copies;~~
- ~~— (i) Retains possession of; or~~
- ~~— (j) Obtains or attempts to obtain access to, permits access to or causes to be accessed;~~
- ~~— a computer, system or network is guilty of a misdemeanor.~~
- ~~3. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:~~
  - ~~— (a) Destroys;~~
  - ~~— (b) Damages;~~
  - ~~— (c) Takes;~~
  - ~~— (d) Alters;~~
  - ~~— (e) Transfers;~~
  - ~~— (f) Discloses;~~
  - ~~— (g) Conceals;~~
  - ~~— (h) Copies;~~
  - ~~— (i) Uses;~~
  - ~~— (j) Retains possession of; or~~
  - ~~— (k) Obtains or attempts to obtain access to, permits access to or causes to be accessed;~~
  - ~~— a computer, system or network is guilty of a misdemeanor.~~
- ~~4. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization:~~
  - ~~— (a) Obtains and discloses;~~
  - ~~— (b) Publishes;~~
  - ~~— (c) Transfers; or~~
  - ~~— (d) Uses;~~
  - ~~— a device used to access a computer, network or data is guilty of a misdemeanor.~~
- ~~5. Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization introduces, causes to be introduced or attempts to introduce a computer contaminant into a computer, system or network is guilty of a misdemeanor.~~
- ~~6. If the violation of any provision of this section:~~
  - ~~— (a) Was committed to devise or execute a scheme to defraud or illegally obtain property;~~
  - ~~— (b) Caused response costs, loss, injury or other damage in excess of [\$500;] \$2,000; or~~
  - ~~— (c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity;~~

~~the person is guilty of a category [C] D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.~~

~~7. The provisions of this section do not apply to a person performing any testing, including, without limitation, penetration testing, of an information system of an agency that uses the equipment or services of the Division of Enterprise Information Technology Services of the Department of Administration that is authorized by the Administrator of the Division of Enterprise Information Technology Services or the head of the Office of Information Security of the Division. As used in this subsection:~~

~~(a) "Information system" has the meaning ascribed to it in NRS 242.057.~~

~~(b) "Penetration testing" has the meaning ascribed to it in NRS 242.171.]~~

**(Deleted by amendment.)**

~~Sec. 77. [NRS 205.477 is hereby amended to read as follows:~~

~~205.477 1. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, maliciously and without authorization interferes with, denies or causes the denial of access to or use of a computer, system or network to a person who has the duty and right to use it is guilty of a gross misdemeanor.~~

~~2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully, maliciously and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or information service is guilty of a gross misdemeanor.~~

~~3. If the violation of any provision of this section:~~

~~(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;~~

~~(b) Caused response costs, loss, injury or other damage in excess of [\$500;] \$2,000; or~~

~~(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity;~~

~~the person is guilty of a category [C] D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.~~

~~4. It is an affirmative defense to a charge made pursuant to this section that at the time of the alleged offense the defendant reasonably believed that:~~

~~(a) The defendant was authorized to use or access the computer, system, network, telecommunications device, telecommunications service or information service and such use or access by the defendant was within the scope of that authorization; or~~

~~(b) The owner or other person authorized to give consent would authorize the defendant to use or access the computer, system, network,~~

~~telecommunications device, telecommunications service or information service.~~

~~5. A defendant who intends to offer an affirmative defense described in subsection 4 at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.] **(Deleted by amendment.)**~~

Sec. 78. ~~[NRS 205.492 is hereby amended to read as follows:~~

~~205.492 1. A person shall not willfully falsify or forge any data, information, image, program, signal or sound that:~~

~~(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or~~

~~(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail,~~

~~with the intent to transmit or cause to be transmitted the item of electronic mail to any Internet or network site or to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission.~~

~~2. Except as otherwise provided in subsection 7, a person shall not willfully transmit or cause to be transmitted an item of electronic mail to any Internet or network site or to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission if the person knows or has reason to know that the item of electronic mail contains or has been generated or formatted with:~~

~~(a) An Internet domain name that is being used without the consent of the person who holds the Internet domain name; or~~

~~(b) Any data, information, image, program, signal or sound that has been used intentionally in the header, subject line or routing instructions of the item of electronic mail to falsify or misrepresent:~~

~~(1) The identity of the sender; or~~

~~(2) The source, point of origin or path of transmission of the item of electronic mail.~~

~~3. A person shall not knowingly sell, give or otherwise distribute or possess with the intent to sell, give or otherwise distribute any data, information, image, program, signal or sound which is designed or intended to be used to falsify or forge any data, information, image, program, signal or sound that:~~

~~(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or~~

~~(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail.~~

~~4. Except as otherwise provided in subsection 7, a person shall not willfully and without authorization transmit or cause to be transmitted an item of electronic mail or any other data, information, image, program, signal or sound to any Internet or network site, to the electronic mail address of one or more recipients or to any other computer, system or network:~~

~~—(a) With the intent to prevent, impede, delay or disrupt the normal operation or use of the Internet or network site, electronic mail address, computer, system or network, whether or not such a result actually occurs; or~~

~~—(b) Under circumstances in which such conduct is reasonably likely to prevent, impede, delay or disrupt the normal operation or use of the Internet or network site, electronic mail address, computer, system or network, whether or not such a result actually occurs.~~

~~—5. Except as otherwise provided in subsection 6, a person who violates any provision of this section is guilty of a misdemeanor.~~

~~—6. If the violation of any provision of subsection 4:~~

~~—(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;~~

~~—(b) Caused response costs, loss, injury or other damage in excess of [\$500;] \$2,000; or~~

~~—(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity;~~

~~→ the person is guilty of a category [C] D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.~~

~~—7. The provisions of subsections 2 and 4 do not apply to a provider of Internet service who, in the course of providing service, transmits or causes to be transmitted an item of electronic mail on behalf of another person, unless the provider of Internet service is the person who first generates the item of electronic mail.~~

~~—8. As used in this section, “item of electronic mail” includes, without limitation:~~

~~—(a) A single item of electronic mail;~~

~~—(b) Multiple copies of one or more items of electronic mail;~~

~~—(c) A collection, group or bulk aggregation of one or more items of electronic mail;~~

~~—(d) A constant, continual or recurring pattern or series of one or more items of electronic mail; or~~

~~—(e) Any other data, information, image, program, signal or sound that is included or embedded in or attached or connected to one or more items of electronic mail.] (Deleted by amendment.)~~

**Sec. 79.** NRS 205.520 is hereby amended to read as follows:

205.520 A bailee, or any officer, agent or servant of a bailee, who issues or aids in issuing a document of title, knowing that the goods covered by the document of title have not been received by him or her, or are not under his or her control at the time the document is issued, shall be punished:

1. Where the value of the goods purported to be covered by the document of title is ~~1. Where the value of the goods purported to be covered by the document of title is \$650-\$2,000~~ \$1,200 or more, for a category D felony as provided

in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value is less than ~~[\$650, \$2,000,]~~ \$1,200, for a misdemeanor.

**Sec. 80.** NRS 205.540 is hereby amended to read as follows:

205.540 Except as otherwise provided in chapter 104 of NRS, a bailee, or any officer, agent or servant of a bailee, who issues or aids in issuing a duplicate or additional negotiable document of title, knowing that a former negotiable document for the same goods or any part of them is outstanding and uncanceled, shall be punished:

1. Where the value of the goods purported to be covered by the document of title is ~~[\$650, \$2,000]~~ \$1,200 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value is less than ~~[\$650, \$2,000,]~~ \$1,200, for a misdemeanor.

**Sec. 81.** NRS 205.570 is hereby amended to read as follows:

205.570 A person who, with the intent to defraud, obtains a negotiable document of title for goods to which the person does not have title, or which are subject to a security interest, and negotiates the document for value, without disclosing the want of title or the existence of the security interest, shall be punished:

1. Where the value of the goods purported to be covered by the document of title is ~~[\$650, \$2,000]~~ \$1,200 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value is less than ~~[\$650, \$2,000,]~~ \$1,200, for a misdemeanor.

**Sec. 82.** NRS 205.580 is hereby amended to read as follows:

205.580 A person who, with the intent to defraud, secures the issue by a bailee of a negotiable document of title, knowing at the time of issue that any or all of the goods are not in possession of the bailee, by inducing the bailee to believe that the goods are in the bailee's possession, shall be punished:

1. Where the value of the goods purported to be covered by the document of title is ~~[\$650, \$2,000]~~ \$1,200 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value is less than ~~[\$650, \$2,000,]~~ \$1,200, for a misdemeanor.

**Sec. 83.** NRS 205.590 is hereby amended to read as follows:

205.590 A person who, with the intent to defraud, negotiates or transfers for value a document of title, which by the terms thereof represents that goods are in possession of the bailee who issued the document, knowing that the bailee is not in possession of the goods or any part thereof, without disclosing this fact, shall be punished:

1. Where the value of the goods purported to be covered by the document of title is ~~[\$650, \$2,000]~~ \$1,200 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value is less than ~~[\$650, \$2,000,]~~ \$1,200, for a misdemeanor.

**Sec. 84.** NRS 205.605 is hereby amended to read as follows:

205.605 1. A person shall not:

(a) Use a scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card:

(1) Without the permission of the authorized user of the payment card; and

(2) With the intent to defraud the authorized user, the issuer of the payment card or any other person.

(b) Use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card:

(1) Without the permission of the authorized user of the card from which the information is being reencoded; and

(2) With the intent to defraud the authorized user, the issuer of the payment card or any other person.

2. A person who violates any provision of this section is guilty of a category ~~B~~ C felony and shall be punished ~~by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.]~~ as provided in NRS 193.130.

3. In addition to any other penalty, the court shall order a person who violates any provision of this section to pay restitution, including, without limitation, any attorney's fees and costs incurred to:

(a) Repair the credit history or rating of each person who is a victim of the violation; and

(b) Satisfy a debt, lien or other obligation incurred by each person who is a victim of the violation.

**Sec. 84.3.** NRS 205.606 is hereby amended to read as follows:

205.606 1. A person shall not ~~possess~~ :

(a) Install or affix, temporarily or permanently, a scanning device within or upon a machine with the intent to use the scanning device for an unlawful purpose;

(b) Access, by electronic or any other means, a scanning device with the intent to use the scanning device for an unlawful purpose; or

(c) Possess a scanning device or reencoder with the intent to use the scanning device or reencoder for an unlawful purpose.

2. A person who violates any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. As used in this section, "machine" means a machine used to conduct financial transactions, including, without limitation, an automated teller or fuel pump. As used in this subsection, "automated teller" means an electronic device that dispenses cash in connection with an account maintained in a financial institution or with another business.

**Sec. 84.5.** NRS 205.607 is hereby amended to read as follows:



205.607 The provisions of NRS 205.601 to 205.608, inclusive, do not apply to any person who, without the intent to defraud or commit an unlawful act, installs, affixes, accesses, possesses or uses a scanning device or reencoder:

1. In the ordinary course of his or her business or employment; or
2. Pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction.

**Sec. 84.7. NRS 205.940 is hereby amended to read as follows:**

205.940 1. Any person who in renting or leasing any personal property obtains or retains possession of such personal property by means of any false or fraudulent representation, fraudulent concealment, false pretense or personation, trick, artifice or device, including, but not limited to, a false representation as to his or her name, residence, employment or operator's license, is guilty of larceny and shall be punished as provided in NRS 205.2175 to ~~205.2707~~, 205.2705, inclusive. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing personal property that any representation made by the person in obtaining or retaining possession of the personal property is contrary to the fact.

2. Any person who, after renting or leasing any personal property under an agreement in writing which provides for the return of the personal property to a particular place at a particular time fails to return the personal property to such place within the time specified, and who, with the intent to defraud the lessor or to retain possession of such property without the lessor's permission, thereafter fails to return such property to any place of business of the lessor within 72 hours after a written demand for the return of such property is made upon the person by registered mail addressed to his or her address as shown in the written agreement, or in the absence of such address, to his or her last known place of residence, is guilty of larceny and shall be punished as provided in NRS 205.2175 to ~~205.2707~~, 205.2705, inclusive. The failure to return the personal property to the place specified in the agreement is prima facie evidence of an intent to defraud the lessor or to retain possession of such property without the lessor's permission. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person upon whom such demand was made that the person failed to return the personal property to any place of business of the lessor within 20 days after such demand.

**Sec. 85. NRS 205.950 is hereby amended to read as follows:**

205.950 1. It is unlawful for a person to receive an advance fee, salary, deposit or money to obtain a loan for another unless the person places the advance fee, salary, deposit or money in escrow pending completion of the loan or a commitment for the loan.

2. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsection 1 if the person making them first signs a written agreement which specifies the estimated costs by

item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in subsection 3.

3. A person who violates the provisions of this section:

(a) Is guilty of a misdemeanor if the amount is less than ~~[\$650; \$1,000;]~~ \$1,200; or

(b) ~~Is guilty of a gross misdemeanor if the amount is \$650 \$1,000 or more but less than \$1,000; \$2,000; or~~

~~(c) Is guilty of a category D felony if the amount is \$1,000 \$2,000; \$1,200~~ or more and shall be punished as provided in NRS 193.130.

**Sec. 85.5. NRS 205.980 is hereby amended to read as follows:**

205.980 1. A person who is convicted of violating any provision of NRS 205.060 or 205.2175 to ~~205.2707;]~~ 205.2705, inclusive, is civilly liable for the value of any property stolen and not recovered in its original condition. The value of the property must be determined by its retail value or fair market value at the time the crime was committed, whichever is greater.

2. A person who is convicted of any other crime involving damage to property is civilly liable for the amount of damage done to the property.

3. The prosecutor shall notify the victim concerning the disposition of the criminal charges against the defendant within 30 days after the disposition. The notice must be sent to the last known address of the victim.

4. An order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

5. Nothing in this section prohibits a victim from recovering additional damages from the defendant.

**Sec. 86. NRS 207.010 is hereby amended to read as follows:**

207.010 1. Unless the person is prosecuted pursuant to NRS 207.012 or 207.014, a person convicted in this State of:

(a) Any felony, who has previously been ~~two~~ five times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony is a habitual criminal and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years.

(b) Any felony, who has previously been ~~three~~ seven times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony is a habitual criminal and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

~~2. [A previous conviction must not be considered a conviction pursuant to this section if the previous conviction was for a:~~

~~—(a) Category A felony, a crime of violence as defined in NRS 200.408 that constitutes a felony, or a sexual offense as defined in NRS 179D.097 and a period of 10 years elapsed between the date of release from actual custody or discharge from parole or probation for the previous conviction, whichever occurred later, and the date of the commission of the current offense.~~

~~—(b) Category B, C or D felony and a period of 5 years elapsed between the date of release from actual custody or discharge from parole or probation for the previous conviction, whichever occurred later, and the date of the commission of the current offense.~~

~~—(c) Category E felony and a period of 2 years elapsed between the date of release from actual custody or discharge from parole or probation for the previous conviction, whichever occurred later, and the date of the commission of the current offense.~~

~~—3.] A previous or current conviction under NRS 453.336 or 453.411 must not be used as the basis for a conviction pursuant to this section.~~

~~[4.]~~ 3. It is within the discretion of the prosecuting attorney whether to include a count under this section in any information or file a notice of habitual criminality if an indictment is found. The trial judge may, at his or her discretion, dismiss a count under this section which is included in any indictment or information.

**Sec. 87.** NRS 207.012 is hereby amended to read as follows:

207.012 1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and  
 (b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,

↪ is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;  
 (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or  
 (3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. The district attorney shall include a count under this section in any information or shall file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.4631,

200.464, 200.465, 200.467, 200.468, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, paragraph (b) of subsection 1 or subsection 2 of NRS 202.830, NRS 205.010, subsection ~~4~~ 5 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484C.130, 484C.430 or 484E.010.

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

**Sec. 88.** NRS 207.203 is hereby amended to read as follows:

207.203 1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who commits a violation of NRS 207.200 by trespassing on the premises of a licensed gaming establishment and who has previously been convicted of three violations of NRS 201.354 within the immediately preceding 5 years is guilty of a misdemeanor and shall be punished by:

- (a) A fine of \$1,000;
- (b) Imprisonment in the county jail for not more than 6 months; or
- (c) Both fine and imprisonment.

↪ In lieu of all or a part of the punishment which may be imposed pursuant to this subsection, the person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

2. The court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place the person on probation upon terms and conditions that must include attendance and successful completion of ~~it~~ :

- (a) A counseling or educational program ; or ~~it~~
- (b) *In* the case of a person dependent upon drugs, ~~it~~ a program of treatment and rehabilitation pursuant to ~~NRS 453.580~~ **section 20 of this act if the court determines that the person is eligible for participation in such a program.**

3. Upon violation of a term or condition, the court may enter a judgment of conviction and punish the person as provided in subsection 1.

4. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him or her.

5. Except as otherwise provided in subsection 6, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that

arrest, indictment, information or trial in response to an inquiry made of the person for any purpose. Discharge and dismissal under this section may only occur once with respect to any person.

6. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

7. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

8. As used in this section, "licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

**Sec. 89.** NRS 209.1315 is hereby amended to read as follows:

209.1315 The Director may continue to develop and implement, in each institution and facility of the Department, a program of facility training for the correctional staff. ***Such training must include:***

***1. Training in evidence-based practices, including, without limitation, principles of effective intervention, effective case management and core correctional practices; and***

***2. Courses on interacting with victims of domestic violence and trauma ~~and~~ and people with behavioral health needs and both physical and intellectual disabilities.***

**Sec. 90.** NRS 209.341 is hereby amended to read as follows:

209.341 ***1.*** The Director shall:

~~1-1~~ ***(a)*** Establish, with the approval of the Board, a system of initial classification and evaluation for offenders who are sentenced to imprisonment in the state prison. ~~1-2~~

~~2-1~~ ***(b)*** Assign every person who is sentenced to imprisonment in the state prison to an appropriate institution or facility of the Department. The assignment must be based on an evaluation of the offender's records, particular needs and requirements for custody.

***(c) Administer a risk and needs assessment to each offender for the purpose of guiding institutional programming and placement. The Department may consider the responsivity factors of an offender when making decisions concerning such programming and placement.***

***2. Any risk and needs assessment used by the Department pursuant to this section must undergo a validation study not less than once every 3 years. The Department shall establish quality assurance procedures to ensure***

*proper and consistent scoring of any risk and needs assessment used pursuant to this section.*

**3. As used in this section:**

(a) *“Responsivity factors” has the meaning ascribed to it in NRS 213.107.*

(b) *“Risk and needs assessment” has the meaning ascribed to it in NRS 213.107.*

**Sec. 91.** NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the Director may ***approve a medical release and*** assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his or her sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated or in ill health to such a degree that the offender does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within ~~12-24~~ **18** months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians ***or nurses*** licensed pursuant to chapter 630, **632** or 633 of NRS, ***as applicable***, one of whom is not employed by the Department, verify, in writing, that the offender is:

(1) Physically incapacitated or in ill health; or

(2) In ill health and expected to die within ~~12-24~~ **18** months.

**2. A request for medical release pursuant to this section:**

(a) ***May be submitted to the Director by:***

(1) ***A prison official or employee;***

(2) ***An offender;***

(3) ***An attorney or representative of an offender;***

(4) ***A family member of an offender; or***

(5) ***A medical or mental health professional.***

(b) ***Must be in writing and articulate the grounds supporting the appropriateness of the medical release of the offender.***

**3.** If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) The board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

~~4.~~ **4.** Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole

and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

↪ If a current address has not been provided by a victim as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

~~4.~~ 5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

~~5.~~ 6. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~6.~~ 7. The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.

~~7.~~ 8. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

~~8.~~ 9. The Division of Parole and Probation may receive and distribute restitution paid by an offender assigned to the custody of the Division of Parole and Probation pursuant to this section.

**Sec. 92.** NRS 209.511 is hereby amended to read as follows:

209.511 1. Before an offender is released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may provide mediation services to the offender and the family members and friends of the offender who provide emotional, psychological and financial support to the offender.

2. Not later than 3 months before an offender is projected to be released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may, if space is available, provide an eligible offender with one or more evidence-based or promising practice reentry programs to obtain employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person.

3. ~~Except as otherwise provided in subsection 4, when~~ **When** an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:

(a) May furnish the offender with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;

(c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) Shall provide the offender with a photo identification card issued by the Department and information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:

(1) Requests a photo identification card; ~~or~~

(2) Requests such information and assistance and is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles; **or**

**(3) Is not currently in possession of a photo identification card;**

(f) ~~May~~ **Shall** provide the offender with clothing suitable for reentering society;

(g) ~~May~~ **Shall** provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;

(h) ~~May, but is not required to,~~ **If appropriate, shall** release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; ~~and~~

(i) Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus ~~+~~;



*(j) If the offender is eligible for Medicaid or Medicare, shall complete enrollment application paperwork for the offender; and*

*(k) If the offender was receiving a prescribed medication while in custody, shall ensure that the offender is provided with a 30-day supply of any such prescribed medication.*

4. The Director shall not provide an offender with a photo identification card pursuant to paragraph (e) of subsection 3 unless **the photo identification card clearly indicates whether** the Director ~~has~~ :

**(a) Has** verified the full legal name and age of the offender by obtaining an original or certified copy of the documents required by the Department of Motor Vehicles pursuant to NRS 483.290 or 483.860, as applicable, furnished as proof of the full legal name and age of an applicant for a driver's license or identification card ~~+~~; **or**

**(b) Has not verified the full legal name and age of the offender pursuant to paragraph (a).**

5. The costs authorized *or required* in paragraphs (a), (e), (f), (g), ~~and~~ (i) *and* (k) of subsection 3 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

6. The Director is encouraged to work with the Nevada Community Re-Entry Task Force established by the Governor pursuant to executive order, or its successor body, if any, to align statewide strategies for the reentry of offenders into the community and the implementation of those strategies.

7. As used in this section:

(a) "Eligible offender" means an offender who is:

(1) Determined to be eligible for reentry programming based on the Nevada Risk Assessment Services instrument, or its successor risk assessment tool; and

(2) Enrolled in:

(I) Programming services under a reentry program at a correctional facility which has staff designated to provide the services; or

(II) A community-based program to assist offenders to reenter the community.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

(c) "Photo identification card" means a document which includes the name, date of birth and a color picture of the offender.

(d) "Promising practice reentry program" means a reentry program that has strong quantitative and qualitative data showing positive outcomes, but does not have sufficient research or replication to support recognition as an evidence-based practice.

Sec. 93. Chapter 213 of NRS is hereby amended by adding thereto ~~to new section to read as follows:~~ the provisions set forth as sections 93.3 and 93.7 of this act.

Sec. 93.3. 1. Notwithstanding any other provision of law, the Board may grant geriatric parole to a prisoner if he or she ~~has~~ :

(a) ~~Has not been convicted of first degree murder pursuant to subsection 1 of NRS 200.030, does~~ :

(1) A crime of violence;

(2) A crime against a child as defined in NRS 179D.0357;

(3) A sexual offense as defined in NRS 179D.097;

(4) Vehicular homicide pursuant to NRS 484C.130; or

(5) A violation of NRS 484C.430;

(b) Is not serving a sentence of life imprisonment without the possibility of parole and has not been sentenced to death;

(c) Does not pose a significant and articulable risk to public safety ; and

~~Is~~  
~~(a) Is 60 years of age or older and has served 10 years of the minimum term or minimum aggregate term of imprisonment, as applicable, imposed by the court; or~~

~~(b)~~ (d) Is 65 years of age or older and has served ~~7~~ 8 consecutive years ~~of~~ in the ~~minimum~~ custody of the Department, including any credit earned for time served in a county jail as ordered by the court, or at least a majority of the maximum term or ~~minimum~~ maximum aggregate term, ~~of imprisonment,~~ as applicable, ~~imposed by the court.~~ of his or her sentence, whichever occurs earlier.

2. Consideration for geriatric parole may be initiated by the submission of a written application and supporting documentation to the Board , including, without limitation, relevant medical records, plans for parole, program participation records, institutional records, documents concerning eligibility for Medicaid or Medicare and any other relevant documents, from:

(a) A prison official or employee;

(b) A prisoner;

(c) An attorney or representative of a prisoner;

(d) A family member of a prisoner; or

(e) A medical or mental health professional.

3. Not later than 15 days after receipt of an application submitted pursuant to subsection 2, the Board shall notify the Department of the application and request verification of the prisoner's age and the length of time the prisoner has spent in the custody of the Department.

4. Upon receipt of a request from the Board submitted pursuant to subsection 3, if the Department determines that the prisoner:

(a) Meets the criteria set forth in subsection 1, the Department shall:

(1) Notify the Board of the prisoner's eligibility for consideration of geriatric parole;

(2) Place the prisoner on the next available list of persons eligible for parole pursuant to NRS 209.254; and

(3) Provide to the Board a report prepared in accordance with paragraph (c) of subsection 1 of NRS 213.131.

(b) Does not meet the criteria set forth in subsection 1, the Department shall notify the Board and explain the reasons for such a determination.

5. Upon receipt of the list prepared pursuant to NRS 209.254, the Board shall, after sending copies of the list to all law enforcement agencies in this State and other appropriate persons in accordance with subsection 5 of NRS 213.1085, schedule a hearing to consider the geriatric parole of an eligible prisoner whose name appears on the list.

6. Except as otherwise provided in subsection 7, the Board shall schedule and conduct the geriatric parole hearing of a prisoner in the same general manner in which other prisoners are considered for parole. The Board shall notify the prisoner and the person submitting the application pursuant to subsection 2 of the date, time and location of the geriatric parole hearing.

7. When determining whether to grant geriatric parole to a prisoner, the Board must consider:

(a) The prisoner's:

(1) Age;

(2) Behavior while in custody; and

(3) ~~Level of risk~~ Potential for violence;

(b) The reported severity of any illness, disease or infirmity of the prisoner; and

(c) Any available alternatives for maintaining geriatric inmates or inmates who have a medical condition in traditional settings.

~~{4.} 8. The Board shall determine whether to grant geriatric parole to notify a prisoner [not later than 60 calendar days after receipt of an application and supporting documentation submitted to the Board pursuant to subsection 2.~~

~~5.} of the Board's decision as to whether to grant geriatric parole in accordance with subsection 11 of NRS 213.131.~~

9. At the time of the release of a prisoner on geriatric parole, the Board shall prescribe the terms and conditions of the geriatric parole.

~~{6.} 10. A person who is granted geriatric parole pursuant to this section is under the supervision of the Division. The Division is responsible for supervising the person's compliance with the terms and conditions prescribed by the Board.~~

~~{7.} 11. Except as otherwise provided in this subsection, the Board shall not take any action on an application submitted pursuant to subsection 2 if the prisoner to whom the application pertains was previously denied geriatric parole and less than 24 months have elapsed since the most recent denial. The Board may take action on such an application if a shorter period has~~

been prescribed by the Board or a request is made by the Director of the Department because of the adverse health of the prisoner.

12. The provisions of this section are not intended to replace the provisions relating to the general eligibility and consideration of parole provided in NRS 213.1099 and 213.1215.

13. The Board shall adopt any regulations necessary to carry out the provisions of this section.

14. As used in this section, "Department" means the Department of Corrections.

Sec. 93.7. 1. Notwithstanding any other provision of law, and except as otherwise provided in subsection 3, the Division shall recommend the early discharge of a person from parole to the Board if a parolee:

(a) Has served at least 12 calendar months on parole supervision in the community and is projected to have not more than 12 calendar months of community supervision remaining to serve on any sentence;

(b) Has not violated any condition of parole during the immediately preceding 12 months;

(c) Is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076;

(d) Has paid restitution in full or, because of economic hardship that is verified by the Division, has been unable to make restitution as ordered by the court; and

(e) Has completed any program of substance use treatment or mental health treatment or a specialty court program as mandated by the Board.

2. The Board may award credits in an amount equal to the time remaining on any sentence to reduce the sentence to time served.

3. The provisions of this section do not apply to any person who is sentenced to lifetime supervision pursuant to NRS 176.0931.

4. The Board may adopt any regulations necessary to carry out the provisions of this section.

Sec. 94. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, ~~and section 93.7~~ sections 93.3 and 93.7 of this act, unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.
2. "Chief" means the Chief Parole and Probation Officer.
3. "Division" means the Division of Parole and Probation of the Department of Public Safety.
4. "Residential confinement" means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.
5. "Responsivity factors" means characteristics of a person that affect his or her ability to respond favorably or unfavorably to any treatment goals.
6. "Risk and needs assessment" means a validated, standardized actuarial tool that identifies risk factors that increase the likelihood of a

*person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.*

7. “Sex offender” means any person who has been or is convicted of a sexual offense.

~~6.~~ 8. “Sexual offense” means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

~~7.~~ 9. “Standards” means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

**Sec. 95.** NRS 213.1078 is hereby amended to read as follows:

213.1078 1. Except as otherwise provided in ~~subsection 2,~~ **subsections 3 and 5**, the Division shall **administer a risk and needs assessment to each probationer and parolee under the Division’s supervision. The results of the risk and needs assessment must be used to** set a level of supervision for each probationer ~~[-A-] and parolee and to develop individualized case plans pursuant to subsection 6. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.~~

2. **Except as otherwise provided in subsection 3, at least once every 6 months, year, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool,** or more often if necessary, the Division shall ~~review the probationer’s level of supervision]~~ **administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used** to determine whether a change in the level of supervision is necessary. The Division shall ~~specify in each review]~~ **document** the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.

~~2.~~ 3. The provisions of ~~subsection]~~ **subsections 1 and 2** are not applicable if:

(a) The level of supervision for the probationer is set by the court or by law; or

(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.

~~3.~~ 4. Except as otherwise provided in subsection ~~4,~~ 5, ~~at least once every 6 months, year,~~ **on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool,** or more often if necessary, the Division shall ~~review a parolee’s level of supervision]~~ **administer a subsequent risk and needs assessment to each parolee. The**

*results of the risk and needs assessment conducted in accordance with this subsection must be used* to determine whether a change in the level of supervision is necessary. The Division shall ~~specify in each review~~ **document** the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the parolee of the change.

~~4.1~~ 5. The provisions of ~~subsection 3~~ **subsections 1 and 4** are not applicable if the level of supervision for the parolee is set by the Board or by law.

6. *The Division shall develop an individualized case plan for each probationer and parolee. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each probationer or parolee.*

7. *Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the supervising officer shall seek a modification of the terms and conditions from the court pursuant to subsection 1 of NRS 176A.450.*

8. *Upon a finding that a condition of parole or the level of parole supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 4, the supervising officer shall submit a request to the Board to modify the condition or level of supervision set by the Board. The Division shall provide written notification to the parolee of any modification.*

9. *The risk and needs assessment required under this section must undergo ~~for~~ periodic validation ~~study not less than once every 3 years.~~ studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.*

Sec. 96. NRS 213.1095 is hereby amended to read as follows:

213.1095 The Chief Parole and Probation Officer:

1. Is responsible for and shall supervise the fiscal affairs and responsibilities of the Division.

2. May establish, consolidate and abolish sections within the Division.

3. May establish, consolidate and abolish districts within the State to which assistant parole and probation officers are assigned.

4. Shall appoint the necessary supervisory personnel and other assistants and employees as may be necessary for the efficient discharge of the responsibilities of the Division.

5. Is responsible for such reports of investigation and supervision and other reports as may be requested by the Board or courts.

6. Shall direct the work of all assistants and employees assigned to him or her.

7. Shall formulate methods of investigation, supervision, recordkeeping and reporting.

8. Shall develop policies of parole and probation after considering other acceptable and recognized correctional programs and conduct training courses for the staff. *Such training courses must include:*

*(a) Training in evidence-based practices, including, without limitation, principles of effective intervention, effective case management and effective practices in ~~corrections~~ community supervision settings; and*

*(b) Courses on interacting with victims of domestic violence and trauma ~~and~~ and people with behavioral health needs and both physical and intellectual disabilities.*

9. Shall furnish to each person released under his or her supervision a written statement of the conditions of parole or probation, instruct any parolee or probationer regarding those conditions, and advise the Board or the court of any violation of the conditions of parole and probation.

10. At the close of each biennium, shall submit to the Governor and the Board a report, with statistical and other data, of his or her work.

**Sec. 97.** NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in this section and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

↪ the prisoner must be released on parole 12 months before the end of his or her maximum term or maximum aggregate term, as applicable, as reduced by any credits the prisoner has earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that the prisoner committed the offense for which the prisoner was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

(a) The prisoner has served the minimum term or the minimum aggregate term of imprisonment imposed by the court, as applicable;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. If a prisoner who meets the criteria set forth in subsection 2 is determined to be a high risk to reoffend in a sexual manner pursuant to NRS 213.1214, the Board is not required to release the prisoner on parole pursuant to this section. If the prisoner is not granted parole, a rehearing date must be scheduled pursuant to NRS 213.142.

4. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.

5. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

6. **If a prisoner meets the criteria set forth in subsection 1 ~~1~~ and there are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings, the Board may grant parole to the prisoner without a meeting.** If the Board finds that there is a reasonable probability that a prisoner considered for release on parole pursuant to subsection 1 will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

7. If the Board finds that there is a reasonable probability that a prisoner considered for release on parole pursuant to subsection 2 will be a danger to public safety while on parole, the Board is not required to grant the parole and shall schedule a rehearing pursuant to NRS 213.142. Except as otherwise provided in subsection 3 of NRS 213.1519, if a prisoner is not granted parole pursuant to this subsection, the criteria set forth in subsection 2 must be applied at each subsequent hearing until the prisoner is granted parole or expires his or her sentence. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 2, the Board shall provide to the prisoner a written statement of its reasons for denying parole, along with specific recommendations of the Board, if any, to improve the possibility of granting parole the next time the prisoner may be considered for parole.

8. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

9. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.



10. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.

**Sec. 98.** NRS 213.131 is hereby amended to read as follows:

213.131 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the Board of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings are quasi-judicial and must be open to the public. No rights other than those conferred pursuant to this section or pursuant to specific statute concerning meetings to consider prisoners for parole are available to any person with respect to such meetings.

4. Except as otherwise provided in NRS 213.10915, not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of the victim's rights pursuant to this subsection, if the victim has requested notification in writing and has provided his or her current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his or her rights pursuant to this subsection and the victim is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the

Board must not be held responsible if such notification is not received by the victim.

5. The Board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the State Board of Parole Commissioners.

7. Except as otherwise provided in NRS 213.10915, if a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

9. The Board may grant parole without a meeting, pursuant to NRS **213.1215** or 213.133, but the Board must not deny parole to a prisoner unless the prisoner has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If the Board fails to provide notice of the meeting to the prisoner or to provide the prisoner with an opportunity to be present and determines that it may deny parole, the Board may reschedule the meeting.

10. During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his or her own expense, to have a representative present with whom the prisoner may confer; and

(b) To speak on his or her own behalf or to have his or her representative speak on his or her behalf.

11. Upon making a final decision concerning the parole of the prisoner, the Board shall provide written notice to the prisoner of its decision not later than 10 working days after the meeting and, if parole is denied, specific recommendations of the Board to improve the possibility of granting parole the next time the prisoner is considered for parole, if any.

12. For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

**Sec. 99.** NRS 213.133 is hereby amended to read as follows:

213.133 1. Except as otherwise provided in subsections 6, 7 and 8, the Board may delegate its authority to hear, consider and act upon the parole of a prisoner and on any issue before the Board to a panel consisting of:

(a) Two or more members of the Board, two of whom constitute a quorum;  
or

(b) One member of the Board who is assisted by a case hearing representative.

2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board. Such action may be taken at a meeting of the Board or without a meeting by the delivery of written approval to the Executive Secretary of the Board.

4. The degree of complexity of issues presented must be taken into account before the Board makes any delegation of its authority and before it determines the extent of a delegation.

5. The Board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.

6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:

- (a) Who committed a capital offense;
- (b) Who is serving a sentence of imprisonment for life;
- (c) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;
- (d) Who is a habitual criminal; or
- (e) Whose sentence has been commuted by the State Board of Pardons Commissioners,

→ must be conducted by at least three members of the Board, and action may be taken only with the concurrence of at least four members.

7. If a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chair must concur in the recommendation.

8. ~~†A†~~ ***In accordance with any regulations adopted by the Board, a member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 may shall review the parole eligibility of a prisoner and*** recommend to the Board that a prisoner be released on parole without a meeting if:

(a) The prisoner is not serving a sentence for a crime described in subsection 6;

(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;

(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings; and

(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.

9. ***If a member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 does not recommend that a prisoner be released on parole without a meeting pursuant to subsection 8, the prisoner must have a parole hearing.***

**10.** A recommendation made in accordance with subsection 8 is subject to final approval by the affirmative action of a majority of the members appointed to the Board. The final approval by affirmative action must not take place until the expiration of the 30-day notice period to law enforcement of the eligibility for parole of the prisoner in accordance with subsection 5 of NRS 213.1085. Such action may be taken at a meeting of the Board or without a meeting of the Board by delivery of written approval to the Executive Secretary of the Board by a majority of the members.

**Sec. 100.** NRS 213.140 is hereby amended to read as follows:

213.140 1. When a prisoner becomes eligible for parole pursuant to this chapter or the regulations adopted pursuant to this chapter, the Board shall consider and may authorize the release of the prisoner on parole as provided in this chapter. The Board may authorize the release of a prisoner on parole whether or not parole is accepted by the prisoner.

2. *Not later than 6 months before the date a prisoner becomes eligible for parole, the Department of Corrections and the prisoner shall develop a reentry plan for the prisoner that takes into consideration the needs, limitations and capabilities of the prisoner. The Division shall review the reentry plan and verify the information contained therein ~~and~~ and shall coordinate with any other state agencies for available services regarding housing or treatment. Before the prisoner's parole eligibility date, the Department of Corrections shall provide a copy of the reentry plan to the prisoner. A reentry plan developed pursuant to this subsection must include, without limitation, information relating to:*

- (a) *The proposed residence of the prisoner;*
- (b) *The prisoner's employment or means of financial support;*
- (c) *Any treatment and counseling options available to the prisoner, including, without limitation, any clinical assessments relating to the behavioral health needs of the prisoner; ~~and~~*
- (d) *Any job or education services available to the prisoner ~~and~~; and*
- (e) *Eligibility and enrollment for Medicaid and Medicare.*

3. If the release of a prisoner on parole is authorized by the Board, the Division shall:

- (a) Review and, if appropriate, approve each prisoner's proposed *reentry* plan ~~for placement upon release;~~ *developed pursuant to subsection 2;* or
- (b) If the prisoner's *proposed reentry* plan is not approved by the Division, assist the prisoner to develop a plan for his or her placement upon release, before the prisoner is released on parole. The prisoner's proposed *reentry* plan must identify the county in which the prisoner will reside if the prisoner will be paroled in Nevada.

~~3.~~ 4. If a prisoner is indigent and the prisoner's proposed *reentry* plan ~~for placement upon release~~ indicates that the prisoner will reside in transitional housing upon release, the Division may, within the limits of available resources, pay for all or a portion of the cost of the transitional housing for the prisoner based upon the prisoner's economic need, as

determined by the Division. The Division shall make such payment directly to the provider of the transitional housing.

~~{4}~~ 5. The Board may adopt any regulations necessary or convenient to carry out this section.

**Sec. 101.** NRS 213.1519 is hereby amended to read as follows:

213.1519 1. Except as otherwise provided in subsections 2 and 3, a parolee whose parole is revoked by decision of the Board for *the commission of a ~~violation of any rule or regulation governing his or her conduct;~~ new felony, ~~for~~ gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485 or violation of NRS 484C.110 or 484C.120 or for absconding:*

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS; and

(b) Must serve such part of the unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board with rehearing dates scheduled pursuant to NRS 213.142.

↪ The Board may restore any credits forfeited under this subsection.

2. A parolee released on parole pursuant to subsection 1 of NRS 213.1215 whose parole is revoked for having been convicted of a new felony:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve the entire unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence; and

(c) May not again be released on parole during his or her term of imprisonment.

3. A parolee released on parole pursuant to subsection 2 of NRS 213.1215 whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct:

(a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to chapter 209 of NRS;

(b) Must serve such part of the unexpired maximum term or maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board; and

(c) Must not be considered again for release on parole pursuant to subsection 2 of NRS 213.1215 but may be considered for release on parole pursuant to NRS 213.1099, with rehearing dates scheduled pursuant to NRS 213.142.

↪ The Board may restore any credits forfeited under this subsection.

4. *If the Board finds that the parolee committed one or more technical violations of the conditions of parole, the Board may:*

(a) *Continue parole supervision;*

(b) *Temporarily revoke parole supervision and impose a term of imprisonment of not more than:*

(1) *Thirty days for the first temporary parole revocation;*

- (2) *Sixty days for the second temporary parole revocation; or*
- (3) *Ninety days for the third temporary parole revocation; or*
- (c) *Fully revoke parole supervision and impose the remainder of the sentence for a fourth or subsequent revocation.*

5. *As used in this section:*

- (a) *“Absconding” has the meaning ascribed to it in NRS 176A.630.*
- (b) *“Technical violation” means any alleged violation of the conditions of parole that is not the commission of a new felony, ~~or~~ gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485 or violation of NRS 484C.110 or 484C.120 and does not constitute absconding. The term does not include termination from a specialty court program.*

**Sec. 102.** NRS 217.070 is hereby amended to read as follows:

217.070 1. “Victim” means ~~†~~ *a person who suffers direct or threatened physical, financial or ~~emotional~~ psychological harm as a result of the commission of a crime, including, without limitation:*

- (a) A person who is physically injured or killed as the direct result of a criminal act;
- (b) A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;
- (c) A minor who was sexually abused, as “sexual abuse” is defined in NRS 432B.100;
- (d) A person who is physically injured or killed as the direct result of a violation of NRS 484C.110 or any act or neglect of duty punishable pursuant to NRS 484C.430 or 484C.440;
- (e) A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of a crash involving the driver and the pedestrian in violation of NRS 484E.010;
- (f) An older person or a vulnerable person who is abused, neglected, exploited, isolated or abandoned in violation of NRS 200.5099 or 200.50995;
- (g) A person who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1); ~~†~~
- (h) A person who is trafficked in violation of subsection 2 of NRS 201.300 ~~†~~; *or*

(i) *A person who is an immediate family member of a victim who:*

- (1) *Is a minor;*
- (2) *Is physically or mentally incompetent; or*
- (3) *Was killed.*

2. The term includes any person who was harmed by an act listed in subsection 1, regardless of whether:

- (a) The person is a resident of this State, a citizen of the United States or is lawfully entitled to reside in the United States; or
- (b) The act was committed by an adult or a minor.

**Sec. 102.5.** NRS 284.140 is hereby amended to read as follows:

284.140 The unclassified service of the State consists of the following state officers or employees in the Executive Department of the State Government who receive annual salaries for their services:

1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.
2. Except as otherwise provided in NRS 223.085, 223.600 and 232.461 **and section 5.5 of this act** all persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.
3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.
4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the teaching staff and the staffs of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the Administrator in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.
5. All other officers and employees authorized by law to be employed in the unclassified service.

**Sec. 103.** Chapter 289 of NRS is hereby amended by adding thereto the provisions set forth as sections 104 and 105 of this act.

**Sec. 104. 1.** *The Commission shall, subject to the availability of funds appropriated for such a purpose, develop and implement a ~~mental~~ behavioral health field response grant program for the purpose of allowing law enforcement and ~~mental~~ behavioral health professionals to safely respond to crises, including, without limitation, by telephone or video, involving persons with behavioral health issues. The Commission may use a portion of the appropriated funds to develop data management capability to support the program.*

*2. A local law enforcement agency may submit a grant application to the Commission that contains the agency's proposal to develop its ~~mental~~ behavioral health field response by incorporating ~~mental~~ behavioral health professionals into its ~~mental~~ behavioral health field response planning, or two or more local law enforcement agencies may submit a joint grant application that contains their joint proposal. Any proposal submitted by a law enforcement agency must provide a plan for improving ~~mental~~ behavioral health field response and diversion from incarceration through modifying or expanding law enforcement practices in partnership with ~~mental~~ behavioral health professionals. The Commission may prioritize grant applications that include total matching funds.*

3. *The Commission shall appoint a peer review panel to review, in consultation with behavioral health organizations ~~and~~ and the Department of Health and Human Services the grant applications submitted by local law enforcement agencies and select the grant recipients. To the extent possible, at least one grant recipient must be from a rural county. To avoid any conflict of interest, any law enforcement agency that is included in a proposal shall recuse itself from voting on the peer review panel.*

4. *If the Commission certifies that the grant application of a selected recipient satisfies the proposal criteria, the Commission shall distribute grant funds to the selected recipient. The Commission shall make every effort to fund at least three grants each fiscal year. Grant recipients must be selected and receive grant funds not later than October 1 of each year the ~~mental~~ behavioral health field response grant program is funded.*

5. *A grant recipient must provide for at least one ~~mental~~ behavioral health professional who will perform professional services under its plan. Such a ~~mental~~ behavioral health professional may assist patrolling officers in the field or in an on-call capacity, provide preventive, follow-up training on ~~mental~~ behavioral health field response best practices or provide other services at the direction of the grant recipient. A grant recipient may coordinate with local public safety answering points to maximize the goals of its plan.*

6. *Using existing resources, the Commission shall:*

(a) *Consult with the staff of the Office of Analytics of the Department of Health and Human Services to establish data collection and reporting guidelines for grant recipients for the purpose of studying and evaluating whether the use of ~~mental~~ behavioral health field response programs improves the outcomes of interactions with persons experiencing behavioral health crises, including, without limitation, by reducing rates of violence, arrests and jail or emergency room usage.*

(b) *Consult with the Department of Health and Human Services to develop requirements for participating ~~mental~~ behavioral health professionals.*

(c) *Coordinate with the Department of Health and Human Services, the Division of Public and Behavioral Health of the Department of Health and Human Services and public safety answering points to develop and incorporate telephone or dispatch protocols to assist with ~~mental~~ behavioral health, law enforcement and emergency medical responses involving behavioral health situations.*

7. *On or before December 1 of each year the ~~mental~~ behavioral health field response grant program is funded, the Commission shall submit to the Governor, the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary a report concerning the program which must include, without limitation:*

(a) *Information on and feedback from grant recipients; and*



*(b) Information on the use of grant funds and the participation of ~~mental~~ behavioral health professionals.*

*8. A grant recipient shall develop and provide or arrange joint training necessary for both law enforcement and ~~mental~~ behavioral health professionals to operate successfully and competently in partnership with law enforcement agencies. The training must provide such professionals with working knowledge of law enforcement procedures and tools sufficient to provide for the safety of such professionals.*

*9. Nothing in this section prohibits the Commission from soliciting or accepting private funds to support the ~~mental~~ behavioral health field response grant program.*

**Sec. 105. 1. Each law enforcement agency in this State shall:**

*(a) Establish a policy and procedure for interacting with persons who suffer from a behavioral health issue, including, without limitation, a mental illness as defined in NRS 176A.045, an acute mental health crisis, a developmental disability or an intellectual disability as those terms are defined in NRS 435.007 or a substance ~~abuse~~ use disorder; and*

*(b) Subject to the availability of funds appropriated for such a purpose, contract with or employ a behavioral health specialist.*

*2. As used in this section, "behavioral health specialist" means a physician who is certified by the Board of Medical Examiners, a psychologist, a physician assistant or an advanced practice registered nurse who is certified to practice as a behavioral health specialist, or a person who is licensed as a clinical social worker, clinical professional counselor or marriage and family therapist.*

**Sec. 106.** NRS 289.450 is hereby amended to read as follows:

289.450 As used in NRS 289.450 to 289.650, inclusive, **and sections 104 and 105 of this act**, unless the context otherwise requires, the words and terms defined in NRS 289.460 to 289.490, inclusive, have the meanings ascribed to them in those sections.

**Sec. 107.** NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chair, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.650, inclusive ~~†~~, **and sections 104 and 105 of this act.**

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

***(i) Shall develop and approve a standard curriculum of certified training programs in crisis intervention, which may be made available in an electronic format, and which address specialized responses to persons with mental illness and train peace officers to identify the signs and symptoms of mental illness, to de-escalate situations involving persons who appear to be experiencing a behavioral health crisis and, if appropriate, to connect such persons to treatment. A peace officer who completes any program developed pursuant to this paragraph must be issued a certificate of completion.***

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children;

(c) Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation, isolation and abandonment of older persons; and

(d) May require that training be carried on at institutions which it approves in those regulations.

**Sec. 108.** NRS 289.650 is hereby amended to read as follows:

289.650 1. The Commission shall:

(a) Establish by regulation the minimum standards of a voluntary program for the training of law enforcement dispatchers. ***Such standards must include training relating to behavioral health crisis intervention as described in NRS 289.510.***

(b) Certify qualified instructors for approved courses of training for law enforcement dispatchers and issue appropriate certificates to instructors who become certified.

(c) Issue appropriate certificates to law enforcement dispatchers who have satisfactorily completed the voluntary program.

2. As used in this section, "law enforcement dispatcher" means a person who is employed by a law enforcement agency or regional telecommunication center and who promotes public safety by:

- (a) Receiving calls for service related to crimes, traffic incidents, public safety and any other related calls for assistance; and
- (b) Providing immediate and critical communication between the public and law enforcement agencies.

**Sec. 109.** NRS 433.254 is hereby amended to read as follows:

433.254 1. The Administrator serves at the pleasure of the Director of the Department and shall:

- (a) Serve as the Executive Officer of the Division;
- (b) Administer the Division in accordance with the policies established by the Commission;
- (c) Make an annual report to the Director of the Department on the condition and operation of the Division, and such other reports as the Director may prescribe; and
- (d) Employ, within the limits of available money, the assistants and employees necessary to the efficient operation of the Division.

2. The Administrator may:

- (a) Appoint the administrative personnel necessary to operate the programs of the Division.
- (b) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of the facilities of the Division.

3. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Director of the Department.

~~4. The Administrator may accept persons referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.~~

**Sec. 110.** NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

- (a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.
- (b) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the provisions of NRS 432B.197 and NRS 432B.4681 to 432B.469, inclusive, and the policies adopted pursuant thereto.

2. The Administrator may:

- (a) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children.
- (b) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

3. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Director of the Department.

4. ~~The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.~~

—5— The Administrator may enter into agreements with the Administrator of the Division of Public and Behavioral Health of the Department or with the Administrator of the Aging and Disability Services Division of the Department for the care and treatment of consumers of the Division of Child and Family Services at any facility operated by the Division of Public and Behavioral Health or the Aging and Disability Services Division, as applicable.

**Sec. 110.5. NRS 439.258 is hereby amended to read as follows:**

439.258 1. The Division shall evaluate, certify and monitor programs for the treatment of persons who commit domestic violence in accordance with the regulations adopted pursuant to subsection 2.

2. The Division shall adopt regulations governing the evaluation, certification and monitoring of programs for the treatment of persons who commit domestic violence.

3. The regulations adopted pursuant to subsection 2 must include, without limitation, provisions ~~following~~ following:

**(a) Requiring that a program:**

**(1) Include a module specific to victim safety; and**

**(2) Be based on:**

**(I) Evidence-based practices; and**

**(II) The assessment of a program participant by a supervisor of treatment or provider of treatment; and**

**(b) Allowing** a program that is located in another state to become certified in this State to provide treatment to persons who:

~~(a)~~ **(1) Reside in this State; and**

~~(b)~~ **(2) Are ordered by a court in this State to participate in a program for the treatment of persons who commit domestic violence.**

**Sec. 111. NRS 453.316 is hereby amended to read as follows:**

453.316 1. A person who opens or maintains any place for the purpose of unlawfully selling, giving away or using any controlled substance is guilty of a category ~~B~~ **C** felony and shall be punished ~~by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$10,000, except as otherwise provided in subsection 2.~~ **as provided in NRS 193.130.**

2. If a person convicted of violating this section has previously been convicted of violating this section, or if, in the case of a first conviction of violating this section, the person has been convicted of an offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under this section, the person is guilty

of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than ~~2 years~~ **1 year** and a maximum term of not more than ~~10~~ **6** years, and may be further punished by a fine of not more than ~~\$20,000~~. ~~The court shall not grant probation to or suspend the sentence of a person convicted of violating this section if the person has been previously convicted under this section or of any other offense described in this subsection.~~ **\$10,000.**

3. This section does not apply to any rehabilitation clinic established or licensed by the Division of Public and Behavioral Health of the Department.

**Sec. 112.** NRS 453.321 is hereby amended to read as follows:

453.321 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to:

- (a) Import, transport, sell, exchange, barter, supply, prescribe, dispense, give away or administer a controlled or counterfeit substance;
- (b) Manufacture or compound a counterfeit substance; or
- (c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.333 or 453.334, if a person violates subsection 1 and the controlled substance is classified in schedule I or II, the person ~~is guilty of a category B felony and~~ shall be punished:

(a) For the first offense, ~~by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$20,000.~~ **for a category C felony as provided in NRS 193.130.**

(b) For a second offense, or if, in the case of a first conviction under this subsection, the offender has previously been convicted of an offense under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, **for a category B felony** by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$20,000.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times under this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to an offense under this section, **for a category B felony** by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

3. ~~The~~ **Unless mitigating circumstances exist that warrant the granting of probation, the** court shall not grant probation to or suspend the sentence of a person convicted under subsection 2 and punishable pursuant to paragraph (b) or (c) of subsection 2.

4. Unless a greater penalty is provided in NRS 453.333 or 453.334, if a person violates subsection 1, and the controlled substance is classified in schedule III, IV or V, the person shall be punished:

(a) For the first offense, for a category ~~{C}~~ **D** felony as provided in NRS 193.130.

(b) For a second offense, or if, in the case of a first conviction of violating this subsection, the offender has previously been convicted of violating this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a violation of this section, for a category ~~{B}~~ **C** felony ~~{by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$15,000.}~~ **as provided in NRS 193.130.**

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times of violating this section or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a violation of this section, for a category B felony by imprisonment in the state prison for a minimum term of not less than ~~{3}~~ **2** years and a maximum term of not more than ~~{15}~~ **10** years, and may be further punished by a fine of not more than ~~{\$20,000}~~ **\$15,000** for each offense.

5. ~~{The}~~ ***Unless mitigating circumstances exist that warrant the granting of probation, the*** court shall not grant probation to or suspend the sentence of a person convicted under subsection 4 and punishable pursuant to paragraph (b) or (c) of subsection 4.

**Sec. 113.** NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For ~~{the}~~ **a** first or second offense, if the controlled substance is listed in schedule I, ~~{I}~~ **or II** ~~{I}~~ **and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, ~~{or IV}~~ or V, ~~{I}~~ and the quantity possessed is less than 28 grams,** for a category E felony as provided in NRS 193.130. ~~{misdemeanor}~~ **In accordance with section 19 of this act, the court shall defer judgment upon the consent of the person.**

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, ~~{I}~~ **or II** ~~{I}~~ **and the quantity possessed is less than 14 grams, or if**

the controlled substance is listed in schedule III, ~~IV~~ or V ~~and the quantity possessed is less than 28 grams,~~ or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category ~~D~~ felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) ~~For the first offense, if~~ **If the controlled substance is listed in schedule ~~IV~~ I or II and the quantity possessed is 14 grams or more, but less than 28 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 28 grams or more, but less than 200 grams,** for a category ~~E~~ C felony as provided in NRS 193.130.

(d) ~~For a second or subsequent offense, if~~ **If the controlled substance is listed in schedule ~~V~~ I or II and the quantity possessed is 28 grams or more, but less than 42 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 200 grams or more,** for a category ~~D~~ B felony ~~as provided in NRS 193.130.~~ **by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than \$50,000.**

(e) **If the controlled substance is listed in schedule I or II and the quantity possessed is 42 grams or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than \$50,000.**

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) ~~Examined by a treatment provider approved by the court to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned~~ **Assigned** to a program of treatment and rehabilitation pursuant to ~~NRS 453.580. As used in this subparagraph, "treatment provider" has the meaning ascribed to it in NRS 458.010.~~ **section 20 of this act if the court determines that the person is eligible to participate in such a program.**

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) ~~Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.~~ **section 20 of this act if the court determines that the person is eligible to participate in such a program.**

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

6. **The court may grant probation to or suspend the sentence of a person convicted of violating this section.**

7. As used in this section:

(a) “Controlled substance” includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) “Marijuana” does not include concentrated cannabis.

(c) “Sterile hypodermic device program” has the meaning ascribed to it in NRS 439.986.

**Sec. 114.** NRS 453.3361 is hereby amended to read as follows:

453.3361 1. A local authority may enact an ordinance adopting the penalties set forth for misdemeanors in NRS 453.336 for similar offenses under a local ordinance. The ordinance must set forth the manner in which money collected from fines imposed by a court for a violation of the ordinance must be disbursed in accordance with subsection 2.

2. Money collected from fines imposed by a court for a violation of an ordinance enacted pursuant to subsection 1 must be evenly allocated among:

(a) Nonprofit programs for the treatment of ~~abuse~~ use of alcohol or drugs that are certified by the Division of Public and Behavioral Health of the Department;

(b) A program of treatment and rehabilitation established by a court pursuant to ~~NRS 453.580,~~ **section 20 of this act**, if any; and

(c) Local law enforcement agencies,  
 ↪ in a manner determined by the court.

3. As used in this section, “local authority” means the governing board of a county, city or other political subdivision having authority to enact ordinances.

**Sec. 115.** NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is found guilty or guilty but mentally ill of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend



further proceedings and place the person on probation upon terms and conditions that must include attendance and successful completion of ~~any~~ :

(a) An educational program ; or ~~in~~

(b) *In* the case of a person dependent upon drugs, ~~of~~ a program of treatment and rehabilitation pursuant to ~~NRS 453.580.~~ **section 20 of this act if the court determines that the person is eligible for participation in such a program.**

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him or her. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the person for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

**Sec. 116.** NRS 453.337 is hereby amended to read as follows:

453.337 1. Except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to possess for the purpose of sale flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled substance classified in schedule I or II.

2. Unless a greater penalty is provided in NRS 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first offense, for a category D felony as provided in NRS 193.130.

(b) For a second offense, or if, in the case of a first conviction of violating this section, the offender has previously been convicted of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, for a category C felony as provided in NRS 193.130.

(c) For a third or subsequent offense, or if the offender has previously been convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, for a category B felony by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$20,000 for each offense.

3. ~~The~~ **Unless** *Except as otherwise provided in this subsection, unless mitigating circumstances exist that warrant the granting of probation, the court shall not grant probation to or suspend the sentence of a person convicted of violating this section and punishable pursuant to paragraph (b) or (c) of subsection 2. The court shall not grant probation to or suspend the sentence of a person convicted of violating this section, even if mitigating circumstances exist that would otherwise warrant the granting of probation, if the person violated this section by possessing flunitrazepam, gamma-hydroxybutyrate or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.*

**Sec. 117.** NRS 453.338 is hereby amended to read as follows:

453.338 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to possess for the purpose of sale any controlled substance classified in schedule III, IV or V.

2. A person who violates this section shall be punished:

(a) For the first and second offense, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.

(b) For a third or subsequent offense, or if the offender has been previously convicted two or more times of a felony under the Uniform Controlled Substances Act or of any offense under the laws of the United States or any state, territory or district which, if committed in this State, would amount to a felony under the Uniform Controlled Substances Act, for a category C felony as provided in NRS 193.130.

3. ~~The~~ **Unless** *mitigating circumstances exist that warrant the granting of probation, the court shall not grant probation to or suspend the sentence of a person convicted of violating this section and punishable under paragraph (b) of subsection 2.*

Sec. 118. ~~[NRS 453.3383 is hereby amended to read as follows:~~

~~453.3383 For the purposes of NRS 453.3385, 453.339 and 453.3395 [,~~ the

~~†~~

~~1. The weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.~~

~~2. If a person is charged with selling or manufacturing a controlled substance, evidence must be introduced to show that the person had the intent to sell or manufacture the controlled substance. The following circumstances may be used to show that a person has the intent to sell or manufacture a controlled substance:~~

~~(a) The person is in possession of the means to weigh, separate or package the controlled substance;~~

~~(b) The person is in possession of a record indicating a drug-related transaction;~~

~~(c) The controlled substance is separated and packaged in a manner to facilitate delivery;~~

~~(d) The person possesses a firearm that is in his or her immediate physical control at the time the person is in possession of the controlled substance;~~

~~(e) The person is in possession of \$500 or more in cash;~~

~~(f) The person is in possession of any quantity of two or more other controlled substances;~~

~~(g) The person is in possession of paraphernalia, including, without limitation, recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power-generating equipment, that indicates an intent to manufacture a controlled substance;~~

~~(h) The person is using public lands for the manufacture of a controlled substance; or~~

~~(i) There is other relevant and admissible evidence that contributes to proof beyond a reasonable doubt that the person's possession of the controlled substance is for the purpose of selling, manufacturing or delivering the controlled substance.~~

~~3. The quantity of the controlled substance that a person has in his or her possession must not, by itself, be used to show that the person possesses a controlled substance for the purpose of selling or manufacturing the controlled substance.] (Deleted by amendment.)~~

Sec. 119. NRS 453.3385 is hereby amended to read as follows:

453.3385 1. Except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled substance which is listed in schedule I, except marijuana, or any mixture which contains any

such controlled substance, shall be punished, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity ~~involved:~~

~~—(a) Is 4-28 grams or more, but less than 14-100 grams, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6-10 years and by a fine of not more than \$50,000.~~

~~—(b) Is 14-11 possessed is 100 grams or more, but less than 28-400 grams, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 11-5 20 years and by a fine of not more than \$100,000.~~

~~—(c) Is 28-400 grams or more, for a category A-B felony by imprisonment in the state prison:~~

~~—(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or~~

~~—(2) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,~~

~~→ for a minimum term of not less than 3 years and a maximum term of not more than 20 years and by a fine of not more than \$500,000.~~

2. As used in this section, “marijuana” does not include concentrated cannabis.

Sec. 120. ~~NRS 453.339 is hereby amended to read as follows:~~

~~—453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State for who is knowingly or intentionally in actual or constructive possession of marijuana or concentrated cannabis shall be punished, if the quantity involved:~~

~~—(a) Is 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$25,000.~~

~~—(b) Is 1,000 pounds or more, but less than 5,000 pounds, of marijuana or 20 pounds or more, but less than 100 pounds, of concentrated cannabis, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than \$50,000.~~

~~—(c) Is 5,000 pounds or more of marijuana or 100 pounds or more of concentrated cannabis, for a category A felony by imprisonment in the state prison:~~

~~—(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or~~

~~—(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,~~

~~→ and by a fine of not more than \$200,000.~~

~~—2. For the purposes of this section:~~

~~—(a) “Marijuana” means all parts of any plant of the genus Cannabis, whether growing or not, except for industrial hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS. The term does not include concentrated cannabis.~~

~~—(b) The weight of marijuana or concentrated cannabis is its weight when seized or as soon as practicable thereafter. If marijuana and concentrated cannabis are seized together, each must be weighed separately and treated as separate substances.] (Deleted by amendment.)~~

Sec. 121. NRS 453.3395 is hereby amended to read as follows:

453.3395 Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of any controlled substance which is listed in schedule II or any mixture which contains any such controlled substance shall be punished, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity ~~involved:~~

~~1. Is 28 grams or more, but less than 200 grams, for a category C felony as provided in NRS 493.130 and by a fine of not more than \$50,000.~~

~~2. Is 200] possessed is 400 grams or more, [but less than 400 500 grams,] for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than ~~10] 20~~ years and by a fine of not more than \$100,000.~~

~~3. Is 400 500 grams or more, for a category A B felony by imprisonment in the state prison:~~

~~—(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or~~

~~—(b) For a definite term of 15 years, with eligibility for parole beginning when ~~for a minimum term of 5 not less than 3~~ years has been served, ~~and a maximum term of not more than 20 years,~~ and by a fine of not more than \$250,000.]~~

Sec. 122. NRS 453.3405 is hereby amended to read as follows:

453.3405 1. ~~[Except as otherwise provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation] The court may grant probation to or suspend the sentence of a person convicted of violating the provisions of [paragraph (c) of subsection 1 of] NRS 453.3385, [paragraph (c) of subsection 1 of NRS] 453.339 or [subsection 3 of NRS] 453.3395 [must not be suspended and the person is not eligible for parole until the person has actually served the mandatory minimum term of imprisonment prescribed by the section under which the person was convicted.] unless the person violated any such section by possessing flunitrazepam, gamma-hydroxybutyrate or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.~~

2. The court, upon an appropriate motion, may reduce or suspend the sentence of any person convicted of violating any of the provisions of NRS

453.3385, 453.339 or 453.3395 if the court finds that the convicted person rendered substantial assistance in the investigation or prosecution of any offense. The arresting agency must be given an opportunity to be heard before the motion is granted. Upon good cause shown, the motion may be heard in camera.

3. Any appropriate reduction or suspension of a sentence pursuant to subsection 2 must be determined by the court, for reasons stated by the court that may include, without limitation, consideration of the following:

(a) The court's evaluation of the significance and usefulness of the convicted person's assistance, taking into consideration the prosecuting attorney's evaluation of the assistance rendered;

(b) The truthfulness, completeness and reliability of any information or testimony provided by the convicted person;

(c) The nature and extent of the convicted person's assistance;

(d) Any injury suffered or any danger or risk of injury to the convicted person or his or her family resulting from his or her assistance; and

(e) The timeliness of the convicted person's assistance.

**Sec. 122.5. NRS 453.411 is hereby amended to read as follows:**

453.411 1. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except in accordance with a lawfully issued prescription.

2. It is unlawful for a person knowingly to use or be under the influence of a controlled substance except when administered to the person at a rehabilitation clinic established or licensed by the Division of Public and Behavioral Health of the Department, or a hospital certified by the Department.

3. Unless a greater penalty is provided in NRS 212.160, a person who violates this section shall be punished ~~as follows:~~

~~(a) If the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.~~

~~(b) If the controlled substance is listed in schedule V, for a gross misdemeanor, by imprisonment in the county jail for not more than 364 days, and may be further punished by a fine of not more than \$1,000.~~

**Sec. 123. NRS 453.5531 is hereby amended to read as follows:**

453.5531 1. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed \$700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed \$1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount ~~as follows:~~

~~—(a) Not to exceed \$350,000, if the quantity involved is 4 ~~28~~ grams or more, but less than 14 ~~100~~ grams.~~

~~—(b) Not to exceed \$700,000, if the quantity involved is 14 ~~100~~ grams or more, but less than 28 ~~400~~ grams.~~

~~—(c) Not not to exceed \$1,000,000, if the quantity involved is ~~28 ~~400~~~~ 100 grams or more.~~

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount ~~of~~

~~—(a) Not to exceed \$350,000, if the quantity involved is 28 grams or more, but less than 200 grams.~~

~~—(b) Not to exceed \$700,000, if the quantity involved is 200 grams or more, but less than 400 ~~500~~ grams.~~

~~—(c) Not not to exceed \$1,000,000, if the quantity involved is 400 ~~500~~ grams or more.~~

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, to a civil penalty in an amount not to exceed \$350,000.

5. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.324, 453.354, 453.355 or 453.357, to a civil penalty in an amount not to exceed \$250,000 for each violation.

6. As used in this section, “marijuana” does not include concentrated cannabis.

**Sec. 124.** NRS 453.700 is hereby amended to read as follows:

453.700 1. Any person who believes himself or herself to be a narcotic addict may make application to the Division of Public and Behavioral Health of the Department for voluntary submission to treatment maintained under the provisions of NRS 453.660. ~~for NRS 458.290 to 458.350, inclusive.~~

2. The Division of Public and Behavioral Health shall adopt regulations relating to the requirements for voluntary submission under this section.

**Sec. 125.** NRS 465.088 is hereby amended to read as follows:

465.088 1. A person who violates any provision of NRS 465.070 to 465.086, inclusive: ~~is guilty of a category B felony and shall be punished:~~

(a) For the first offense, ~~by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.~~ **is guilty of a category C felony and shall be punished as provided in NRS 193.130.**

(b) For a second or subsequent violation of any of these provisions, **is guilty of a category B felony and shall be punished** by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than

\$10,000. ~~The court shall not suspend a sentence of imprisonment imposed pursuant to this paragraph, or grant probation to the person convicted.~~

2. A person who attempts, or two or more persons who conspire, to violate any provision of NRS 465.070 to 465.086, inclusive, each is guilty of a category ~~B~~ C felony and shall be punished by imposing the penalty provided in subsection 1 for the completed crime, whether or not he or she personally played any gambling game or used any prohibited device.

**Sec. 126.** NRS 475.105 is hereby amended to read as follows:

475.105 A person who steals a device intended for use in preventing, controlling, extinguishing or giving warning of a fire:

1. If the device has a value of less than ~~[\$650, \$2,000,] \$1,200~~, is guilty of a ~~gross~~ misdemeanor.

2. If the device has a value of ~~[\$650-\$2,000] \$1,200~~ or more, is guilty of ~~grand larceny] a category~~ ~~C~~ D felony and shall be punished as provided in NRS ~~[205.222-] 193.130~~.

**Sec. 126.3.** NRS 483.290 is hereby amended to read as follows:

483.290 1. An application for an instruction permit or for a driver's license must:

- (a) Be made upon a form furnished by the Department.
- (b) Be verified by the applicant before a person authorized to administer oaths. Officers and employees of the Department may administer those oaths without charge.
- (c) Be accompanied by the required fee.
- (d) State the full legal name, date of birth, sex, address of principal residence and mailing address, if different from the address of principal residence, of the applicant and briefly describe the applicant.
- (e) State whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal.
- (f) Include such other information as the Department may require to determine the competency and eligibility of the applicant.

2. Every applicant must furnish proof of his or her full legal name and age by displaying:

- (a) An original or certified copy of the required documents as prescribed by regulation; or
- (b) A photo identification card issued by the Department of Corrections pursuant to NRS 209.511 ~~+~~ which indicates that the Director of the Department of Corrections has verified the full legal name and age of the applicant pursuant to subsection 4 of that section.

3. The Department shall adopt regulations prescribing the documents an applicant may use to furnish proof of his or her full legal name and age to the Department pursuant to paragraph (a) of subsection 2, including, without



limitation, a document issued by the Department pursuant to NRS 483.375 or 483.8605.

4. At the time of applying for a driver's license, an applicant may, if eligible, preregister or register to vote pursuant to NRS 293.524.

5. Every applicant who has been assigned a social security number must furnish proof of his or her social security number by displaying:

(a) An original card issued to the applicant by the Social Security Administration bearing the social security number of the applicant; or

(b) Other proof acceptable to the Department, including, without limitation, records of employment or federal income tax returns.

6. The Department may refuse to accept a driver's license issued by another state, the District of Columbia or any territory of the United States if the Department determines that the other state, the District of Columbia or the territory of the United States has less stringent standards than the State of Nevada for the issuance of a driver's license.

7. With respect to any document presented by a person who was born outside of the United States to prove his or her full legal name and age, the Department:

(a) May, if the document has expired, refuse to accept the document or refuse to issue a driver's license to the person presenting the document, or both; and

(b) Shall issue to the person presenting the document a driver's license that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the driver's license is valid for 1 year beginning on the date of issuance.

8. The Administrator shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue a driver's license in accordance with this section to a person who is a citizen of any state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue a driver's license to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.

9. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an instruction permit or for a driver's license. As used in this subsection, "consular identification card" has the meaning ascribed to it in NRS 232.006.

**Sec. 126.7. NRS 483.860 is hereby amended to read as follows:**

483.860 1. Every applicant for an identification card must furnish proof of his or her full legal name and age by presenting:

(a) An original or certified copy of the required documents as prescribed by regulation; or

(b) A photo identification card issued by the Department of Corrections pursuant to NRS 209.511 ~~+~~ **which indicates that the Director of the**

**Department of Corrections has verified the full legal name and age of the applicant pursuant to subsection 4 of that section.**

2. The Director shall adopt regulations:

(a) Prescribing the documents an applicant may use to furnish proof of his or her full legal name and age to the Department pursuant to paragraph (a) of subsection 1, including, without limitation, a document issued by the Department pursuant to NRS 483.375 or 483.8605; and

(b) Setting forth criteria pursuant to which the Department will issue or refuse to issue an identification card in accordance with this section to a person who is a citizen of a state, the District of Columbia, any territory of the United States or a foreign country. The criteria pursuant to which the Department shall issue or refuse to issue an identification card to a citizen of a foreign country must be based upon the purpose for which that person is present within the United States.

3. Notwithstanding any other provision of this section, the Department shall not accept a consular identification card as proof of the age or identity of an applicant for an identification card. As used in this subsection, “consular identification card” has the meaning ascribed to it in NRS 232.006.

**Sec. 127.** NRS 484C.320 is hereby amended to read as follows:

484C.320 1. An offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his or her blood or breath, may, at that time or any time before the offender is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug ~~abuse~~ use for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or ~~abuser~~ user of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the cost of the treatment to the extent of his or her financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug ~~abuse~~ use. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is

not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment provider that is approved by the court, that the offender complete the treatment satisfactorily and that the offender comply with any other condition ordered by the court. If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.

(c) Advise the offender that:

(1) He or she may be placed under the supervision of a treatment provider for a period not to exceed 3 years.

(2) The court may order the offender to be admitted to a residential treatment facility or to be provided with outpatient treatment in the community.

(3) If the offender fails to complete the program of treatment satisfactorily, the offender shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which the offender served before beginning treatment.

(4) If the offender completes the treatment satisfactorily, the offender's sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484C.400, but the conviction must remain on the record of criminal history of the offender.

5. The court shall administer the program of treatment pursuant to the procedures provided in ~~NRS 458.320 and 458.330,~~ **sections 20 to 23, inclusive, of this act**, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his or her failure to be accepted for or complete treatment.

**Sec. 128.** NRS 484C.330 is hereby amended to read as follows:

484C.330 1. An offender who is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400 may, at that time or any time before the offender is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug ~~abuse~~ use for at least 1 year. The court shall authorize that treatment if:

- (a) The offender is diagnosed as an alcoholic or ~~abuser~~ user of drugs by:
- (1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or
  - (2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;
- (b) The offender agrees to pay the costs of the treatment to the extent of his or her financial resources; and
- (c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484C.400, has performed or will perform not less than one-half of the hours of community service.
2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.
3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.
4. If the court grants an application for treatment, the court shall:
- (a) Immediately sentence the offender and enter judgment accordingly.
  - (b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment provider that is approved by the court, that the offender complete the treatment satisfactorily and that the offender comply with any other condition ordered by the court. If the court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.
- (c) Advise the offender that:
- (1) He or she may be placed under the supervision of the treatment provider for a period not to exceed 3 years.
  - (2) The court may order the offender to be admitted to a residential treatment facility or to be provided with outpatient treatment in the community.
  - (3) If the offender fails to complete the program of treatment satisfactorily, the offender shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which the offender served before beginning treatment.
  - (4) If the offender completes the treatment satisfactorily, the offender's sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484C.400, but the conviction must remain on the record of criminal history of the offender.

5. The court shall administer the program of treatment pursuant to the procedures provided in ~~NRS 458.320 and 458.330,~~ *sections 20 to 23, inclusive, of this act*, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his or her failure to be accepted for or complete treatment.

**Sec. 129.** NRS 484C.340 is hereby amended to read as follows:

484C.340 1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400 may, at the time the offender enters a plea, apply to the court to undergo a program of treatment for alcoholism or drug ~~abuse~~ use for at least 3 years. The court may authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or ~~abuser~~ user of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his or her financial resources.

↪ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or ~~abuser~~ user of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place the offender on probation for not more than 5 years.

(b) Order the offender to complete a program of treatment for alcoholism or drug ~~abuse~~ use with a treatment provider approved by the court. If the

court has a specialty court program for the supervision and monitoring of the person, the treatment provider must comply with the requirements of the specialty court, including, without limitation, any requirement to submit progress reports to the specialty court.

(c) Advise the offender that:

(1) He or she may be placed under the supervision of a treatment provider for not more than 5 years.

(2) The court may order the offender to be admitted to a residential treatment facility or to be provided with outpatient treatment in the community.

(3) The court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484C.400 if a treatment provider fails to accept the offender for a program of treatment for alcoholism or drug ~~abuse~~ use or if the offender fails to complete the program of treatment satisfactorily. Any sentence of imprisonment may be reduced by a time equal to that which the offender served before beginning treatment.

(4) If the offender completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484C.400.

(5) The provisions of NRS 483.460 requiring the revocation of the license, permit or privilege of the offender to drive do not apply.

5. The court shall administer the program of treatment pursuant to the procedures provided in ~~NRS 458.320 and 458.330,~~ **sections 20 to 23, inclusive, of this act**, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484C.400 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his or her own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug ~~abuse~~ use pursuant to this section if the offender has previously applied to receive treatment pursuant to this section or if the offender has previously been convicted of:

(a) A violation of NRS 484C.430;

(b) A violation of NRS 484C.130;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled

substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;

(d) A violation of paragraph (c) of subsection 1 of NRS 484C.400;

(e) A violation of NRS 484C.410; or

(f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

**Sec. 130.** NRS 484D.335 is hereby amended to read as follows:

484D.335 1. A person is guilty of a category ~~1B~~ C felony and shall be punished ~~by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$10,000, or by both fine and imprisonment,~~ **as provided in NRS 193.130** if the person knowingly sells a motor vehicle whose odometer has been altered for the purpose of fraud.

2. Except as otherwise provided in subsection 1, any person who violates the provisions of NRS 484D.300 to 484D.345, inclusive, is guilty of a misdemeanor.

**Sec. 131.** NRS 501.3765 is hereby amended to read as follows:

501.3765 1. Any person who intentionally steals, takes and carries away one or more traps, snares or similar devices owned by another person with an aggregate value of less than ~~1,650-2,000~~ **\$1,200** is guilty of a gross misdemeanor.

2. Any person who buys, receives, possesses or withholds one or more traps, snares or similar devices owned by another person with an aggregate value of less than ~~1,650-2,000~~ **\$1,200**:

(a) Knowing that the traps, snares or similar devices are stolen property; or

(b) Under such circumstances as should have caused a reasonable person to know that the traps, snares or similar devices are stolen property,  
 ↪ is guilty of a gross misdemeanor.

**Sec. 131.5. NRS 569.100 is hereby amended to read as follows:**

569.100 1. A person who takes up an estray or feral livestock as provided for in NRS 569.040 to 569.130, inclusive, is entitled to hold the estray or feral livestock lawfully until relieved of custody by the Department.

2. A person shall not use or cause to be used, for profit or otherwise, any estray or feral livestock in the person's keeping under the provisions of NRS 569.040 to 569.130, inclusive. A violation of this subsection shall be deemed grand larceny or petit larceny, as set forth in NRS 205.2175 to ~~205.2707~~ **205.2705**, inclusive, and the person shall be punished as provided in those sections.

3. Any person taking, leading or driving an estray or feral livestock away from the possession of the lawful holder, as specified in NRS 569.040 to 569.130, inclusive, except as otherwise provided in this section, is subject to all the penalties under the law, whether or not the person is the claimant of the estray or feral livestock.

**Sec. 132.** NRS 612.445 is hereby amended to read as follows:

612.445 1. A person shall not make a false statement or representation, knowing it to be false, or knowingly fail to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, including, without limitation, by:

- (a) Failing to properly report earnings;
- (b) Filing a claim for benefits using the social security number, name or other personal identifying information of another person; or
- (c) Filing a claim for or receiving benefits and failing to disclose, at the time he or she files the claim or receives the benefits, any compensation for a temporary total disability or a temporary partial disability or money for rehabilitative services pursuant to chapters 616A to 616D, inclusive, or 617 of NRS received by the person or for which a claim has been submitted pursuant to those chapters.

↪ A person who violates the provisions of this subsection commits unemployment insurance fraud.

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which the person failed to disclose a material fact in addition to any interest, penalties and costs related to that sum. Except as otherwise provided in subsection 3 of NRS 612.480, the Administrator may make an initial determination finding that a person has committed unemployment insurance fraud pursuant to subsection 1 at any time within 4 years after the first day of the benefit year in which the person committed the unemployment insurance fraud.

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter:

(a) For a period beginning with the week in which the Administrator issues a finding that the person has committed unemployment insurance fraud pursuant to subsection 1 and ending not more than 52 consecutive weeks after the week in which it is determined that a claim was filed in violation of subsection 1; or

(b) Until the sum described in subsection 2, in addition to any interest, penalties or costs related to that sum, is repaid to the Administrator,  
↪ whichever is longer. The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his or her behalf, if:

- (a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and
- (b) The claim does not expressly disclose his or her incarceration.



5. A person who obtains benefits of ~~[\$650-\$1,000]~~ \$1,200 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection ~~3 or 4~~ 2 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, the Administrator:

(a) Shall impose a penalty equal to 15 percent of the total amount of benefits received by the person in violation of subsection 1. Money recovered by the Administrator pursuant to this paragraph must be deposited in the Unemployment Trust Fund in accordance with the provisions of NRS 612.590.

(b) May impose a penalty equal to not more than:

(1) If the amount of such benefits is greater than \$25 but not greater than \$1,000, 5 percent;

(2) If the amount of such benefits is greater than \$1,000 but not greater than \$2,500, 10 percent; or

(3) If the amount of such benefits is greater than \$2,500, 35 percent,   
 ↪ of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter. Money recovered by the Administrator pursuant to this paragraph must be deposited in the Employment Security Fund in accordance with the provisions of NRS 612.615.

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he or she was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits as required pursuant to subsection 2 by using any benefits which are due and payable to the person, except that benefits which are due and payable to the person may not be used to repay any related interest, penalties and costs.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

**Sec. 133.** NRS 652.074 is hereby amended to read as follows:

652.074 The provisions of this chapter do not apply to any:

1. Test or examination conducted by a law enforcement officer or agency;  
 2. Test or examination required by a court as a part of or in addition to a program of treatment and rehabilitation pursuant to ~~[NRS 453.580;]~~ **section 20 of this act;** or

3. Task performed in accordance with the regulations adopted by the Board pursuant to NRS 449.0304 or 449.4309.

**Sec. 134.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 135.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

**Sec. 135.5. 1. When the next reprint of the Nevada Revised Statutes is prepared by the Legislative Counsel, the Legislative Counsel shall replace the terms “abuse” and “abuser” as such terms appear in the Nevada Revised Statutes in relation to, without limitation, alcohol or drug abuse or substance abuse assessments, screenings, disorders or treatment programs, with the terms “use” and “user,” respectively, in the manner provided in this act.**

**2. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, make such changes as necessary so that the terms “abuse” and “abuser” are replaced with the terms “use” and “user,” respectively, as described in subsection 1 and as provided for in this act.**

**3. To the extent that revisions are made to the Nevada Revised Statutes pursuant to subsection 1, the revisions shall be construed as nonsubstantive and it is not the intent of the Nevada Legislature to modify any existing interpretations of any statute which is so revised.**

**Sec. 136.** NRS 205.2707, 453.580, 458.290, 458.300, 458.310, 458.320, 458.325, 458.330, 458.340 and 458.350 are hereby repealed.

**Sec. 137. 1. This section becomes effective upon passage and approval.**

**2. Sections 5 to 5.7, inclusive, 9, 9.3, 9.7 and 102.5 of this act become effective:**

**(a) Upon passage and approval for the purpose of establishing the Office of the Nevada Sentencing Commission created by section 5.5 of this act, including appointing the Executive Director of the Office, and performing any other preliminary administrative tasks that are necessary to carry out the provisions of those sections; and**

**(b) On July 1, 2019, for all other purposes.**

**3. Sections 1 to 4, inclusive, 6, 7, 8, 10 to 102, inclusive, and 103 to 136, inclusive, become effective on July 1, 2020.**

#### LEADLINES OF REPEALED SECTIONS

**205.2707 Penalty for theft of money or property of value of \$650 or more from vending machines; determination of value of property taken includes cost to repair any damage to vending machine.**

**453.580 Program for treatment of certain offenders: Requirements; payment of costs; completion in another jurisdiction.**

**458.290** “Drug addict” defined.

**458.300** Eligibility for assignment to program of treatment.

**458.310 Hearing to determine whether defendant should receive treatment.**

**458.320 Examination of defendant; determination of acceptability for treatment; imposition of conditions; deferment of sentencing; payment of costs of treatment.**

**458.325 Completion of treatment under supervision of treatment provider in another jurisdiction.**

**458.330 Deferment of sentencing; satisfaction of conditions for treatment; determination of transfer to another treatment provider or sentencing; sealing of records.**

**458.340 Civil commitment not criminal conviction.**

**458.350 State or political subdivision not required to provide treatment provider for treatment.**

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 518.

Bill read second time and ordered to third reading.

Assembly Bill No. 520.

Bill read second time and ordered to third reading.

Assembly Bill No. 527.

Bill read second time and ordered to third reading.

Assembly Bill No. 530.

Bill read second time and ordered to third reading.

Assembly Bill No. 532.

Bill read second time and ordered to third reading.

Senate Bill No. 13.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 713.

AN ACT relating to counties; authorizing the board of county commissioners of a county to form a nonprofit corporation to aid the county in providing certain services during an emergency; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the formation and operation of nonprofit corporations within this State. (Chapter 82 of NRS) **Section 3** of this bill authorizes a board of county commissioners to form a nonprofit corporation to aid the county during an emergency in providing to residents and visitors

emergency assistance or any other governmental service such as social services or financial assistance. **Section 4** of this bill provides that such a nonprofit corporation has the same powers as other nonprofit corporations except that the nonprofit shall not: (1) borrow money, contract debts or issue bonds, promissory notes, drafts, debentures or other indebtedness; ~~for~~ (2) **acquire, transfer or deal in or with bonds or obligations or shares of securities or interests;** (3) levy dues, assessments or fees ~~for~~; or (4) **carry on a business for profit and apply profits to any activity in which the nonprofit may engage.** **Section 5** of this bill deems: (1) such a nonprofit corporation to be a political subdivision; and (2) members of the board of directors to be employees of the political subdivision for purposes of tort liability. **Section 6** of this bill requires that the assets of the government nonprofit corporation must be distributed to the county upon the dissolution of the government nonprofit corporation.

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

**Section 1.** Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2. 1.** *Except as otherwise provided in sections 2 to 6, inclusive, of this act, the provisions of chapter 82 of NRS apply to a nonprofit corporation formed pursuant to section 3 of this act.*

**2.** *To the extent that the provisions of sections 2 to 6, inclusive, of this act conflict with the provisions of chapter 82 of NRS, the provisions of sections 2 to 6, inclusive, of this act control.*

**Sec. 3. 1.** *The board of county commissioners of a county may form a nonprofit corporation to aid the county during an emergency in providing to residents and visitors emergency assistance or any other governmental service, including, without limitation, social services and financial assistance for food and shelter.*

**2.** *The board of county commissioners shall approve by resolution the articles of incorporation and bylaws of the nonprofit corporation before the articles of incorporation may be filed with the Secretary of State pursuant to NRS 82.081. The bylaws of the nonprofit corporation must:*

*(a) Provide that the purpose of the nonprofit corporation is limited to aiding the county during an emergency as provided in subsection 1;*

*(b) Limit the nonprofit corporation to operating only after a declaration of an emergency by the county; and*

*(c) Require that all money received by the nonprofit corporation must be used to benefit victims of the emergency.*

**3.** *After adopting a resolution forming a nonprofit corporation pursuant to this section, the board of county commissioners shall appoint the initial members of the board of directors. All subsequent members of the board of directors must be appointed as provided in the bylaws of the nonprofit corporation.*

4. A person who is appointed to serve as a member of the board of directors who is not otherwise a public officer is not a public officer by virtue of such appointment.

5. The board of directors of the nonprofit corporation formed pursuant to subsection 1 shall provide an annual report to the board of county commissioners which must include, without limitation:

(a) A summary of the activities of the nonprofit corporation during the preceding year;

(b) A statement of the finances of the nonprofit corporation during the preceding year;

(c) A statement of any money received and any money spent by the nonprofit corporation during the preceding year, including, without limitation, the compensation paid to each officer and each member of the board of directors of the nonprofit corporation; and

~~(c)~~ (d) The names of the current members of the board of directors of the nonprofit corporation.

Sec. 4. 1. Except as otherwise provided in subsection 2, a nonprofit corporation formed pursuant to section 3 of this act has the powers set forth in NRS 82.121 and 82.131.

2. A nonprofit corporation formed pursuant to section 3 of this act shall not exercise the powers set forth in subsection 1 ~~for~~, 2, 5 or 7 of NRS 82.131.

Sec. 5. Any liability or action against a nonprofit corporation formed pursuant to section 3 of this act must be determined in the same manner and with the same limitations and conditions as provided in NRS 41.0305 to 41.039, inclusive. To this extent, the nonprofit corporation shall be deemed a political subdivision of the State and the members of the board of directors shall be deemed employees of the political subdivision.

Sec. 6. Upon the dissolution of a nonprofit corporation formed pursuant to section 3 of this act, the assets of the nonprofit corporation must be distributed to the county which formed the nonprofit corporation and used in a manner consistent with the purposes of the nonprofit corporation.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 714.

AN ACT relating to emergency management; authorizing the Governor or the Governor's duly designated representative to establish one or more incident management assistance teams; authorizing certain volunteers to serve

as members of such teams; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the Governor or the Governor’s duly designated representative to create and establish mobile support units to reinforce organizations for emergency management in areas stricken by a disaster or emergency. (NRS 414.080) **Sections 1-3** of this bill change the name of these mobile support units to incident management assistance teams. **Section 2** of this bill authorizes volunteers trained in responding to an emergency or disaster from an organization that provides such volunteers ~~[, including AmeriCorps, Nevada Volunteers and other similar organizations,]~~ to serve as members of an incident management assistance team.

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

**Section 1.** NRS 414.037 is hereby amended to read as follows:

414.037 ~~“Mobile support unit”~~ **“Incident management assistance team”** means an organization for emergency management created in accordance with the provisions of this chapter by state or local authority to be dispatched by the Governor to supplement local organizations for emergency management in a stricken area.

**Sec. 2.** NRS 414.080 is hereby amended to read as follows:

414.080 1. The Governor or the Governor’s duly designated representative may create and establish such number of ~~mobile support units~~ **incident management assistance teams** as may be necessary to reinforce organizations for emergency management in stricken areas and with due consideration of the plans of the Federal Government and of other states. The Governor may appoint a ~~commander~~ **chief** for each such ~~unit~~ **team** who has primary responsibility for the organization, administration and operation of the ~~unit. Mobile support units~~ **team. Incident management assistance teams** may be called to duty upon orders of the Governor and shall perform their functions in any part of the State, or, upon the conditions specified in this section, in other states.

2. **When creating and establishing an incident management assistance team, the Governor or the Governor’s duly designated representative may include as members of such a team volunteers who are trained in responding to an emergency or disaster from an organization that provides such volunteers. ~~[, including, without limitation, AmeriCorps, Nevada Volunteers and any other similar organization.]~~**

3. Personnel of ~~mobile support units~~ **incident management assistance teams**, while on duty, whether within or without the State:

(a) If they are employees of the State, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of the State, and whether serving within or without that political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of the State or a political subdivision thereof, are entitled to compensation by the State at \$10 per day and to the same rights and immunities as are provided by law for the employees of the State. All personnel of ~~mobile support units,~~ **incident management assistance teams**, while on duty, are subject to the operational control of the authority in charge of activities for emergency management in the area in which they are serving, and must be reimbursed for all actual and necessary travel and subsistence expenses.

~~3.~~ **4.** The State may reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of ~~a mobile support unit,~~ **an incident management assistance team**, for all payments for death, disability or injury of such employees incurred in the course of duty, and for all losses of or damage to supplies and equipment of the political subdivision resulting from the operation of such ~~mobile support unit,~~ **incident management assistance team**.

**Sec. 3.** NRS 223.240 is hereby amended to read as follows:

223.240 1. The Governor may, on behalf of this State, enter into mutual or reciprocal aid agreements or compacts with other states or the Federal Government, either on a statewide or political subdivision basis. Prior to committing the personnel, equipment or facilities of any political subdivision of this State, the Governor shall consult with and obtain the approval of the law enforcement executive and the chief executive of each of the political subdivisions affected.

2. Such agreements shall be limited to furnishing or exchange of:

(a) Police services;  
 (b) Personnel necessary to provide or conduct such services; and  
 (c) Such other supplies, equipment, facilities, personnel and services as are needed to support such services.

3. The agreements may relate to the terms and conditions of mutual or reciprocal aid and to reimbursement of costs and expenses for equipment, supplies, personnel and similar items for ~~mobile support units,~~ **incident management assistance teams** and police units.

4. Any such agreement may not extend beyond the elected term of the Governor of this State who entered into such agreement.

**Sec. 4.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 33.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 735.

AN ACT relating to the support of children; imposing certain requirements on insurers relating to certain claimants owing past-due child support; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law imposes a duty on the parent of a child to support his or her child. (NRS 125B.020, 425.350) Under existing law, if a parent or other person with custody of a child receives public assistance in his or her own behalf or in behalf of the child: (1) the parent or other person is deemed to have assigned his or her right to child support from any other person to the Division of Welfare and Supportive Services of the Department of Health and Human Services to the extent of the public assistance received; and (2) the Division is entitled to any child support to which the parent or other person is entitled to the extent of the public assistance provided by the Division. (NRS 425.350, 425.360) Existing law also establishes a Program to locate absent parents, establish paternity and obtain child support, and enforce child support. (42 U.S.C. §§ 651 et seq.; NRS 425.318)

**Section 1** of this bill requires certain insurers to exchange information, either directly or through ~~Insurance Services Office, Inc.~~ **an insurance claim data collection organization approved by the Division,** with the Program not less than 5 days after opening certain bodily injury, wrongful death, workers' compensation or life insurance claims for the purpose of verifying whether the claimant owes a debt for child support to the Division or to a person receiving services from the Program. If periodic payments will be made to the claimant, the insurer is required to make this exchange of information only before the initial payment. If an insurer is notified that the claimant owes any such debt for support, the insurer is required, upon receipt of a notice identifying the amount of debt owed, to: (1) withhold from payment on the claim the amount specified in the notice; and (2) remit the amount withheld from payment to the Division, its designated representative or the prosecuting attorney within 30 days. However, **section 1** requires the Division, its designated representative or the prosecuting attorney to give any item, claim or demand for attorney's fees or costs, medical expenses or property damage priority over any amount to be withheld and remitted to the Division, its designated representative or the prosecuting attorney. If an insurer withholds and remits any such money to the Division, its representative or the prosecuting attorney, the insurer is required to notify the claimant and his or her attorney, if known to the insurer, of that fact.



Section 2 of this bill provides that this bill becomes effective on January 1, 2020.

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

Section 1. Chapter 425 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsections 7 and 8, each insurer shall, not later than 5 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim or a claim under a policy of life insurance, exchange information with the Program in the manner prescribed by the Division to verify whether the claimant owes debt for the support of one or more children to the Division or to a person receiving services from the Program. To the extent feasible, the Division shall facilitate a secure electronic process to exchange information with insurers pursuant to this subsection. The obligation of an insurer to exchange information with the Program is discharged upon complying with the requirements of this subsection.*

2. *Except as otherwise provided in subsections 4 and 6, if an insurer is notified by the Program that a claimant owes debt for the support of one or more children to the Division or to a person receiving services from the Program, the insurer shall, upon receipt of a notice issued by the enforcing authority identifying the amount of debt owed pursuant to chapter 31A of NRS:*

*(a) Not later than 5 days after receiving notice from the enforcing authority, notify the claimant and his or her attorney, if known to the insurer, of the debt owed;*

*(b) Withhold from payment on the claim the amount specified in the notice; and*

*(c) Remit the amount withheld from payment to the enforcing authority within 30 days.*

3. *If an insurer withholds any money from payment on a claim and remits the money to the enforcing authority pursuant to subsection 2, the insurer shall notify the claimant and his or her attorney, if known to the insurer, of that fact.*

4. *The enforcing authority shall give any lien, claim or demand for attorney's fees or costs, medical expenses or property damage, including, without limitation, a demand for attorney's fees or costs incurred in connection with compensation that is subject to the provisions of NRS 616C.205, priority over any withholding of payment pursuant to subsection 2.*

5. *Any information obtained pursuant to this section must be used only for the purpose of carrying out the provisions of this section. Notwithstanding the provisions of this subsection, an insurer or an insurance claim data collection organization approved by the Division or*

other entity that performs the functions described in subsection 8 may not be held liable in any civil or criminal action for any act made in good faith pursuant to this section, including, without limitation:

- (a) Any disclosure of information to the Division or to the Program; or
- (b) The withholding of any money from payment on a claim or the remittance of such money to the enforcing authority.

6. An insurer shall not delay the disbursement of a payment on a claim to comply with the requirements of this section. An insurer is not required to comply with subsection 2 if the notice issued by the enforcing authority is received by the insurer after the insurer has disbursed the payment on the claim. In the case of a claim that will be paid through periodic payments, the insurer:

- (a) Is not required to comply with the provisions of subsection 2 with regard to any payments on the claim disbursed to the claimant before the notice was received by the insurer; and
- (b) Must comply with the provisions of subsection 2 with regard to any payments on the claim scheduled to be made after the receipt of the notice.

7. If periodic payments will be made to a claimant, an insurer is only required to engage in the exchange of information pursuant to subsection 1 before issuing the initial payment.

8. Except as otherwise provided in this subsection, if an insurer reports information concerning claimants to ~~Insurance Services Office, Inc.,~~ an insurance claim data collection organization approved by the Division, the insurer may comply with the requirements of this section by authorizing ~~Insurance Services Office, Inc.,~~ the insurance claim data collection organization to provide claimant information to the federal Office of Child Support Enforcement of the Administration for Children and Families of the United States Department of Health and Human Services, the Program or a designee identified by the Program for the sole purpose of complying with this section. If ~~Insurance Services Office, Inc. ceases to exist or ceases to receive information relating to claimants reported by insurers,~~ no insurance claim data collection organization is approved by the Division, an insurer may comply with the requirements of this section by authorizing ~~a person~~ an entity determined by the Division to perform the same function as ~~Insurance Services Office, Inc.~~ an insurance claim data collection organization to provide claimant information to the federal Office of Child Support Enforcement, the Program or a designee identified by the Program for the sole purpose of complying with this section.

9. As used in this section:

- (a) "Claimant" means any person who:
  - (1) Brings a tort liability claim for bodily injury or wrongful death against an insured under a casualty insurance policy, as defined in NRS 681A.020, or a property insurance policy, as defined in NRS 681A.060;
  - (2) Is a beneficiary under a life insurance policy; or
  - (3) Is receiving workers' compensation benefits.

(b) *“Claim for bodily injury” does not include a claim for uninsured or underinsured vehicle coverage or medical payments coverage under a motor vehicle liability policy.*

(c) *“Insurance claim data collection organization” means an organization that maintains a centralized database of information concerning insurance claims to assist insurers that subscribe to the database in processing claims and detecting and preventing fraud.*

(d) *“Insurer” means:*

(1) *A person who holds a certificate of authority to transact insurance in this State pursuant to NRS 680A.060.*

(2) *A nonadmitted insurer, as defined in NRS 685A.0375, with whom nonadmitted insurance, as defined in NRS 685A.037, is placed.*

(3) *The Nevada Insurance Guaranty Association created by NRS 687A.040.*

**Sec. 2.** This act becomes effective on January 1, 2020.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 715.

AN ACT relating to public safety; creating the Nevada Resilience Advisory Committee; setting forth the membership and duties of the Committee; providing certain exceptions to the open meeting law; requiring the Nevada Resilience Advisory Committee to prepare an annual report and submit the annual report to certain entities; authorizing the Nevada Resilience Advisory Committee to appoint subcommittees in certain situations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

On March 12, 2018, Governor Sandoval signed Executive Order 2018-4, “Implementation of Nevada’s Statewide Resilience Strategy.” Executive Order 2018-4 required the Co-Chairs of the Homeland Security Working Group of the Nevada Commission on Homeland Security to develop a statewide 5-year resilience strategy to be considered by the Commission. The Order additionally required the Co-Chairs of the Homeland Security Working Group to provide recommendations through the resilience strategy for: (1) streamlining the commissions, boards and committees which advise the Division of Emergency Management of the Department of Public Safety; (2) streamlining grant processes to sustain the emergency management and homeland security capacity of Nevada; and (3) incentives for local partners to participate in resilience models, among other requirements.

These requirements were addressed in the Statewide Resilience Strategy, published on July 1, 2018. The Statewide Resilience Strategy made recommendations that this State establish a public body in statute that: (1) consolidates several existing boards and commissions relating to emergency management; (2) coordinates grants and other efforts with respect to resilience programs; (3) may establish subordinate public bodies; and (4) provides an annual report to the Nevada Commission on Homeland Security.

**Section 2** of this bill creates the Nevada Resilience Advisory Committee. **Section 2** provides that: (1) with the approval of the Director of the Department of Public Safety, the Chief of the Division shall appoint not more than 34 voting members to the Committee; (2) with the approval of the Director of the Department of Public Safety, the Chief of the Division or his or her designee serves as the Chair of the Committee; and (3) each appointed voting member of the Committee, other than the Chair, serves a term of 2 years ~~+~~ **and may be reappointed.**

**Sections 3-10** of this bill provide various requirements and duties of the Nevada Resilience Advisory Committee. **Section 3** of this bill requires the Committee to hold a meeting at least once a month. **Section 4** of this bill authorizes the Committee to hold a closed meeting for sensitive issues relating to emergency management or homeland security, as determined by the Committee. **Sections 11 and 12** of this bill make conforming changes. **Section 5** of this bill provides that a member of the Committee or any subcommittee formed pursuant to **section 7** of this bill is not compensated for his or her services as a member of the Committee or the subcommittee. **Section 5** further provides that a member of the Committee or subcommittee who is a public employee must: (1) be granted administrative leave from his or her duties to engage in the business of the Committee or subcommittee; and (2) receive the per diem allowance and travel expenses provided for state officers and employees generally from the state agency or political subdivision which employs him or her.

**Section 6** of this bill sets forth the duties of the Nevada Resilience Advisory Committee, including requiring the Committee to: (1) annually develop state resilience goals and related objectives for the Committee; (2) review and make recommendations concerning certain grants and the coordination of statewide mitigation, preparedness, response and recovery efforts; and (3) develop an annual report. **Section 10** of this bill provides that this annual report must include activities, any assessments of programs and processes and any recommendations based on activities and assessments of the Committee during the preceding calendar year. **Section 10** additionally requires that this annual report be submitted to the Nevada Commission on Homeland Security, the Governor and the Director of the Legislative Counsel Bureau. **Section 7** authorizes the Committee to appoint any subcommittee that is deemed necessary by the Committee. **Section 7** requires such subcommittees to have a specific objective and operate for not more than 6 months, unless an extension is approved by the Committee. **Section 8** of this bill requires the Chief of the

Division to provide staff to assist in carrying out the duties of the Committee. **Section 9** of this bill authorizes the Committee to apply for and receive gifts, grants, contributions or other money from various entities to carry out the provisions of this bill.

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

**Section 1.** Chapter 239C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

**Sec. 2. 1.** *The Nevada Resilience Advisory Committee is hereby created.*

**2.** *With the approval of the Director of the Department of Public Safety, the Chief of the Division shall appoint to the Committee not more than 34 voting members that the Chief determines to be appropriate and who have expertise in:*

- (a) Emergency management;*
- (b) Homeland security;*
- (c) Public safety;*
- (d) Cybersecurity;*
- (e) School safety; or*
- (f) Public health.*

**3.** *With the approval of the Director of the Department of Public Safety, the Chief or his or her designee shall:*

- (a) Serve as the Chair and a voting member of the Committee; and*
- (b) Appoint one voting member of the Committee to serve as Vice Chair.*

**4.** *The term of office of each voting member of the Committee is 2 years. This term limit does not apply to the Chair. A member may be reappointed.*

**Sec. 3. 1.** *The Nevada Resilience Advisory Committee shall meet at the call of the Chair of the Committee as frequently as required to perform its duties, but not less than once a month.*

**2.** *A majority of the voting members of the Committee constitutes a quorum for the transaction of business, and a majority of those voting members present at any meeting is sufficient for any official action taken by the Committee.*

**Sec. 4. 1.** *Except as otherwise provided in subsections 2 and 3, the Nevada Resilience Advisory Committee and any subcommittee formed pursuant to section 7 of this act shall comply with the provisions of chapter 241 of NRS and shall conduct all meetings in accordance with that chapter.*

**2.** *The Committee and, with the prior approval of the Committee, any subcommittee formed pursuant to section 7 of this act may hold a closed meeting for sensitive issues relating to emergency management or homeland security if the Committee or subcommittee, as applicable, determines that the public disclosure of such matters would be likely to compromise, jeopardize or otherwise threaten the safety of the public.*

3. *Except as otherwise provided in NRS 239.0115, all information and materials received or prepared by the Committee and any subcommittee formed pursuant to section 7 of this act during a meeting closed pursuant to subsection 2 and all minutes and audiovisual or electronic reproductions of such a meeting are confidential, are not subject to subpoena or discovery and are not subject to inspection by the general public.*

Sec. 5. 1. *A member of the Nevada Resilience Advisory Committee or any subcommittee formed pursuant to section 7 of this act may not receive any compensation for his or her services as a member of the Committee or the subcommittee.*

2. *Any member of the Committee or any subcommittee formed pursuant to section 7 of this act who is a public employee must be granted administrative leave from his or her duties to engage in the business of the Committee or subcommittee, as applicable, without loss of his or her regular compensation. Such leave does not reduce the amount of his or her other accrued leave.*

3. *Each member of the Committee or any subcommittee formed pursuant to section 7 of this act is entitled, while engaged in the business of the Committee or subcommittee, to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses provided to a member of the Committee or subcommittee who is an officer or employee of the State of Nevada or a political subdivision of this State must be paid by the state agency or political subdivision which employs him or her.*

Sec. 6. *The Nevada Resilience Advisory Committee shall, within the limits of available money:*

1. *Annually develop state resilience goals and related objectives for the Committee;*

2. *Formulate advisory recommendations and policies regarding the emergency management, emergency response and homeland security efforts for the State, as well as statewide mitigation, preparedness, response and recovery efforts;*

3. *In accordance with the state resilience goals and related objectives developed pursuant to subsection 1:*

(a) *Review grants proposed by state agencies, political subdivisions or tribal governments that are responsible for homeland security and make recommendations and provide related advice concerning such grants to the Committee on Finance appointed pursuant to NRS 239C.170;*

(b) *Review grants proposed by agencies of this State, political subdivisions or tribal governments that are responsible for emergency management or emergency response and make recommendations and provide related advice concerning such grants to the Chief of the Division; and*

(c) *Review statewide mitigation, preparedness, response and recovery efforts in consultation with political subdivisions and tribal governments and*

*make recommendations to such political subdivisions and tribal governments concerning these coordination efforts; and*

*4. Develop the annual report required pursuant to section 10 of this act.*

*Sec. 7. 1. Subject to the provisions of subsection 2, the Nevada Resilience Advisory Committee may appoint any subcommittee deemed necessary by the Committee to assist in carrying out the duties of the Committee.*

*2. The Committee may appoint not more than two subcommittees at any time.*

*3. Each subcommittee formed pursuant to subsection 1 must:*

*(a) Have a specific objective; and*

*(b) Operate for not more than 6 months, unless an extension is approved by the Committee.*

*4. The Chair of the Committee shall appoint to a subcommittee formed pursuant to subsection 1 the number of voting members that the Chair of the Committee determines to be appropriate. The Chair may appoint any person the Chair deems appropriate to serve on a subcommittee, except that a subcommittee must include at least one member of the Committee.*

*5. At the first meeting of the subcommittee and, if an extension is approved pursuant to paragraph (b) of subsection 3, every 6 months thereafter, a subcommittee formed pursuant to subsection 1 shall select a chair and a vice chair from the members of the subcommittee.*

*Sec. 8. The Chief of the Division shall provide such staff assistance to the Nevada Resilience Advisory Committee as the Chief deems appropriate.*

*Sec. 9. The Nevada Resilience Advisory Committee may apply for and receive gifts, grants, contributions or other money from governmental and private agencies, affiliated associations and other persons to carry out the provisions of sections 2 to 10, inclusive, of this act and to defray expenses incurred by the Committee in the discharge of its duties.*

*Sec. 10. On or before February 1 of each year, the Nevada Resilience Advisory Committee shall:*

*1. Prepare a report setting forth:*

*(a) The activities of the Committee which occurred during the preceding calendar year;*

*(b) Any assessments of the programs and processes conducted by the Committee to achieve the state resilience goals and related objectives developed pursuant to section 6 of this act and the capacity of such programs and processes;*

*(c) Any recommendations created by the Committee that are based on the activities and assessments conducted during the preceding calendar year; and*

*(d) A description of any matters with respect to which the Committee held a closed meeting or a closed portion of a meeting, as applicable, accompanied by an explanation of the reasons why the Committee determined that the meeting or portion thereof needed to be closed; and*

**2. Submit a copy of the report to:**

**(a) The Nevada Commission on Homeland Security;**

**(b) The Governor; and**

**(c) The Director of the Legislative Counsel Bureau for transmittal to:**

**(1) If the Legislature is in session, the standing committees of the Legislature which have jurisdiction of the subject matter; or**

**(2) If the Legislature is not in session, the Legislative Commission.**

**Sec. 11.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,



442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 4 of this act and** sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested

public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 12.** NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, **and section 4 of this act**, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

↪ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

**Sec. 13.** The provisions of subsection 1 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 14.** This act becomes effective upon passage and approval.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 36.

Bill read second time and ordered to third reading.

Senate Bill No. 41.

Bill read second time and ordered to third reading.

Senate Bill No. 57.

Bill read second time and ordered to third reading.

Senate Bill No. 66.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 716.

AN ACT relating to public safety; renaming the State Disaster Identification Team as the State Disaster Identification Coordination Committee; revising the membership and duties of the Committee; ~~transferring the duty to adopt regulations governing the Committee from the Department of Public Safety to the Division of Emergency Management of the Department;~~ **revising requirements relating to the regulations governing the Committee;** requiring providers of health care to report to the Committee certain information regarding any person who comes or is brought in for treatment of an injury which the provider concludes was inflicted as a result of certain emergencies or disasters or an illness which the provider concludes was contracted during certain health events; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the State Disaster Identification Team within the Division of Emergency Management of the Department of Public Safety and requires the State Disaster Identification Team to provide technical assistance and personnel to local authorities to recover, identify and process deceased victims during the existence of a state of emergency or a declaration of disaster or upon the request of a city or county in Nevada. (NRS 414.270, 414.280) Existing law also requires the Chief of the Division of Emergency Management to assign persons with expertise in various fields to the State Disaster Identification Team to perform these duties. (NRS 414.270) **Existing law requires the Department of Public Safety to adopt regulations governing the State Disaster Identification Team and prescribes certain requirements for these regulations. (NRS 414.300)**

**Section 2** of this bill renames the State Disaster Identification Team as the State Disaster Identification Coordination Committee. **Section 2** also: (1)

revises the membership of the Committee; (2) requires the Committee to meet at least ~~monthly,~~ **once each calendar quarter;** and (3) provides that the Open Meeting Law does not apply to any meeting held by the Committee or any subcommittee thereof. **Section 3** of this bill requires the Committee to: (1) annually report certain information to the Chief of the Division, the Governor and the Legislature; and (2) perform certain other duties relating to planning for activation. **Section 4** of this bill ~~transfers the duty to adopt regulations governing the Committee from the Department of Public Safety to the Division of Emergency Management. (NRS 414.300)~~ **removes the specific requirements prescribed for regulations governing the Committee.**

**Section 1** of this bill authorizes the Chief of the Division of Emergency Management to activate the Committee or a subcommittee thereof during the existence of a state of emergency or declaration of disaster or a public health emergency or upon the request of a city or county in Nevada for an emergency in the city or county. **Section 1** requires the Committee or a subcommittee thereof to perform specified duties to coordinate the sharing of information between state, local and tribal governmental agencies regarding persons who appear to have been injured or killed or contracted an illness as a result of the emergency or disaster in accordance with a confidential plan developed by the Committee. **Sections 5-13 and 16** of this bill make conforming changes as a result of the change in the duties of the Committee from recovering, identifying and processing victims of an emergency or disaster itself to serving as a coordinator of information for agencies that are directly performing such recovery, identification and processing.

Providers of health care are required under existing law to report persons who come or are brought for treatment of burns and injuries from a knife or firearm in certain circumstances. (NRS 629.041, 629.045) **Section 14** of this bill similarly requires providers of health care to report treatment of any person who comes or is brought in for treatment of an injury which the provider concludes was inflicted as a result of a declared emergency or disaster or illness which the provider concludes was contracted during a public health emergency to the State Disaster Identification Coordination Committee. **Section 14** also grants a provider of health care and his or her agents and employees immunity from liability for any **such** disclosures made in good faith.

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

**Section 1.** Chapter 414 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The Chief may activate the State Disaster Identification Coordination Committee or any subcommittee thereof to coordinate the sharing of information among state, local and tribal governmental agencies regarding persons who appear to have been injured or killed or contracted an illness:***

*(a) During the existence of a state of emergency or declaration of disaster pursuant to NRS 414.070 or a public health emergency or other health event pursuant to NRS 439.970; or*

*(b) During an emergency in a political subdivision, upon the request of a political subdivision, if the Chief determines that the political subdivision requires the services of the Committee.*

*2. If activated pursuant to subsection 1, the State Disaster Identification Coordination Committee or subcommittee thereof shall:*

*(a) Determine which state, local or tribal governmental agencies have a legitimate need for the information received pursuant to section 14 of this act and distribute that information to those agencies.*

*(b) Determine the specific information a state, local or tribal governmental agency must share to assist other state, local or tribal governmental agencies to:*

*(1) Identify a person who appears to have been injured or killed or contracted an illness as a result of the emergency, disaster or other event;*

*(2) Notify members of the family of a person who appears to have been injured or killed or contracted an illness as a result of the emergency, disaster or other event;*

*(3) Reunite a person who appears to have been injured or killed or contracted an illness as a result of the emergency, disaster or other event with members of his or her family.*

*(c) Establish a registry of persons who appear to have been injured or killed or contracted an illness as a result of the emergency, disaster or other event and make the registry available to state, local or tribal governmental agencies.*

*(d) Ensure compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and any applicable regulations and any other federal or state law.*

**Sec. 2.** NRS 414.270 is hereby amended to read as follows:

414.270 **1.** A State Disaster Identification ~~Team~~ **Coordination Committee** is hereby established within the Division of Emergency Management of the Department of Public Safety. The Chief ~~of~~

~~1. Shall assign persons with expertise in various fields~~ *shall appoint* to the State Disaster Identification ~~Team; and~~ **Coordination Committee:**

*(a) One or more representatives of a state or local organization for emergency management;*

*(b) One or more representatives of the office of a county coroner;*

*(c) One or more representatives of the Office of the Attorney General;*

*(d) One or more representatives of the Nevada Hospital Association or its successor organization;*

*(e) One or more representatives of a state or local public health agency whose duties relate to emergency preparedness;*

*(f) The Chief Medical Officer;*

(g) *An employee of the Department of Health and Human Services whose duties relate to ensuring compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and any applicable regulations; and*

(h) *A consumer of healthcare services.*

2. ~~May activate such persons to perform the duties of the State Disaster Identification Team:~~

~~—(a) During a state of emergency or declaration of disaster proclaimed pursuant to NRS 414.070; or~~

~~—(b) Upon the request of a political subdivision of this state if the Chief determines that the political subdivision requires the services of the State Disaster Identification Team.~~ *The State Disaster Identification Coordination Committee shall meet at least once ~~per month~~ each calendar quarter.*

3. *The provisions of chapter 241 of NRS do not apply to any meeting held by the State Disaster Identification Coordination Committee or a subcommittee thereof.*

Sec. 3. NRS 414.280 is hereby amended to read as follows:

414.280 ~~Upon activation, the~~ *The State Disaster Identification* ~~Team~~ *Coordination Committee* shall:

1. ~~Provide technical assistance and personnel to local authorities to recover, identify and process deceased victims.~~ *Notify providers of health care, as defined in NRS 629.031, in writing of the requirements of section 14 of this act.*

2. ~~Within 2 hours after activation, begin to identify and report to the Chief the need for medical and health services to:~~

~~—(a) Establish temporary facilities to be used as a morgue.~~

~~—(b) Identify deceased victims by using, without limitation, latent fingerprints and the forensic methods of dentistry, pathology and anthropology.~~

~~—(c) Process and dispose of the remains of deceased victims.~~ *Develop a plan for performing the duties prescribed in section 1 of this act during activation. Such a plan is confidential and must be securely maintained by each person who has possession, custody or control of the plan.*

3. *Annually review the plan developed pursuant to subsection 2 and annually practice carrying out the plan.*

4. *On or before January 31 of each year, submit a report to the Chief, the Governor and the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature, if the report is submitted in an even-numbered year, or the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:*

(a) *A description of the activities of the State Disaster Identification Coordination Committee for the immediately preceding calendar year; and*

*(b) A summary of any policies or procedures adopted by the State Disaster Identification Coordination Committee for the immediately preceding calendar year.*

**Sec. 4.** NRS 414.300 is hereby amended to read as follows:

414.300 The ~~[Division of Emergency Management of the]~~ Department of Public Safety shall adopt *such* regulations ~~to~~ *as are necessary to* govern the State Disaster Identification ~~Team. The regulations must include, without limitation:~~

~~1. Guidelines for the Chief to:~~

~~(a) Assign persons to positions on the State Disaster Identification Team; and~~

~~(b) Determine which members of the State Disaster Identification Team may be activated pursuant to NRS 414.270.~~

~~2. Provisions governing the organization, administration and operation of the State Disaster Identification Team.~~

~~3. The compensation, if any, to be paid by the Department to a member of the State Disaster Identification Team who is activated pursuant to NRS 414.270.]~~ **Coordination Committee.**

**Sec. 5.** NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records, Communications and Compliance Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository:

(1) In the manner approved by the Director of the Department; and

(2) In accordance with the policies, procedures and definitions of the Uniform Crime Reporting Program of the Federal Bureau of Investigation.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates, issues or collects, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

↪ within 60 days after the date of the disposition of the case. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. Each state and local law enforcement agency shall submit Uniform Crime Reports to the Central Repository:

- (a) In the manner prescribed by the Director of the Department;
- (b) In accordance with the policies, procedures and definitions of the Uniform Crime Reporting Program of the Federal Bureau of Investigation; and
- (c) Within the time prescribed by the Director of the Department.

5. The Division shall, in the manner prescribed by the Director of the Department:

- (a) Collect, maintain and arrange all information submitted to it relating to:
  - (1) Records of criminal history; and
  - (2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

~~(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~(d)~~ Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to the Committee on Domestic Violence appointed pursuant to NRS 228.470 when, pursuant to NRS 228.495, the Committee is reviewing the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018.

6. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints or other biometric identifier the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required or authorized to be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or



(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

7. To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 6, the Central Repository must receive:

(a) The person's complete set of fingerprints for the purposes of:

- (1) Booking the person into a city or county jail or detention facility;
- (2) Employment;
- (3) Contractual services; or
- (4) Services related to occupational licensing;

(b) One or more of the person's fingerprints for the purposes of mobile identification by an agency of criminal justice; or

(c) Any other biometric identifier of the person as it may require for the purposes of:

- (1) Arrest; or
- (2) Criminal investigation,

↪ from the agency of criminal justice or agency of the State of Nevada or any political subdivision thereof and submit the received data to the Federal Bureau of Investigation for its report.

8. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment or to serve as a volunteer; or

(3) Is employed by or volunteers for a county school district, charter school or private school,

↪ and immediately notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, immediately notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by or volunteering for a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↳ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits one or more fingerprints or other biometric identifier or has such data submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

(g) On or before July 1 of each year, prepare and post on the Central Repository's Internet website an annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be posted to the Central Repository's Internet website throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and post on the Central Repository's Internet website a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

(j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation:

(1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction; and

(2) The methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored.

9. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice ~~or~~ **or** any other agency dealing with crime which is required to submit information pursuant to subsection 2 . ~~for the State Disaster Identification Team of the Division of Emergency Management of the Department.~~ All money collected

pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

10. As used in this section:

(a) "Mobile identification" means the collection, storage, transmission, reception, search, access or processing of a biometric identifier using a handheld device.

(b) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) A biometric identifier of a person.

(c) "Private school" has the meaning ascribed to it in NRS 394.103.

**Sec. 6.** NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The Nevada Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out the duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a protected person or proposed protected person or persons who may have knowledge of assets belonging to a protected person or proposed protected person.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter or editorial employee who is employed or affiliated with a newspaper, press association or commercially operated, federally licensed radio or television station who requests a record of a named person or aggregate information for statistical purposes, excluding any personal identifying information, in a professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

~~(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~(t) The Commissioner of Insurance.~~

~~(u) (t) The Board of Medical Examiners.~~

~~(v) (u) The State Board of Osteopathic Medicine.~~

~~(w) (v) The Board of Massage Therapy and its Executive Director.~~

~~(x) (w) The Board of Examiners for Social Workers.~~

~~(y) (x) The State Board of Cosmetology and its Executive Director.~~

~~(z) (y) The Committee on Domestic Violence appointed pursuant to NRS 228.470 when, pursuant to NRS 228.495, the Committee is reviewing the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018.~~

~~(aa) (z) A county coroner or medical examiner, as needed to conduct an investigation of the death of a person.~~

5. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

**Sec. 7.** NRS 179A.140 is hereby amended to read as follows:

179A.140 1. Except as otherwise provided in this section, an agency of criminal justice may charge a reasonable fee for information relating to records of criminal history provided to any person or governmental entity.

2. An agency of criminal justice shall not charge a fee for providing such information to another agency of criminal justice if the information is provided for purposes of the administration of criminal justice. ~~or for providing such information to the State Disaster Identification Team of the Division of Emergency Management of the Department.~~

3. The Central Repository shall not charge such a fee:

(a) For information relating to a person regarding whom the Central Repository provided a similar report within the immediately preceding 90 days in conjunction with the application by that person for professional licensure; or

(b) For information provided to any organization that meets the criteria established by regulation pursuant to paragraph (b) of subsection 5 of NRS 179A.310.

4. The Director may request an allocation from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the Department to carry out the provisions of paragraph (b) of subsection 3.

5. All money received or collected by the Department pursuant to this section must be used to defray the cost of operating the Central Repository.

**Sec. 8.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, **414.280**, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800,

484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 9.** NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, **414.270**, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

↪ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

**Sec. 10.** NRS 289.270 is hereby amended to read as follows:

289.270 1. The following persons have the powers of a peace officer:

(a) The Director of the Department of Public Safety.

(b) The chiefs of the divisions of the Department of Public Safety.

(c) The deputy directors of the Department of Public Safety employed pursuant to NRS 480.120.

(d) The sworn personnel of the Department of Public Safety.

~~(e) Members of the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety who are, pursuant~~



to NRS 414.270, activated by the Chief of the Division to perform the duties of the State Disaster Identification Team have the powers of peace officers in carrying out those duties.]

2. Administrators and investigators of the Division of Compliance Enforcement of the Department of Motor Vehicles have the powers of a peace officer to enforce any law of the State of Nevada in carrying out their duties pursuant to NRS 481.048.

3. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles, appointed pursuant to NRS 481.0481, have the powers of peace officers in carrying out their duties under that section.

**Sec. 11.** NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2 and NRS 3.310, 4.353, 258.007 and 258.060, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

- (a) The Chief Parole and Probation Officer;
- (b) The Director of the Department of Corrections;
- (c) The Director of the Department of Public Safety, the deputy directors of the Department ~~and~~ **and** the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol ; ~~and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;~~
- (d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;
- (e) Railroad police officers; and
- (f) California correctional officers.

**Sec. 12.** NRS 289.800 is hereby amended to read as follows:

289.800 In addition to the compensation required by NRS 281.121, a state agency that employs a person:

1. Upon whom some or all of the powers of a peace officer are conferred pursuant to:

- (a) Subsection 1 of NRS 289.180 ~~and~~ **or** subsection 1 of NRS 289.220 ; ~~or paragraph (c) of subsection 1 of NRS 289.270;~~ or
- (b) Paragraph (d) of subsection 1 of NRS 289.270 and who is employed by the Nevada Highway Patrol; and

2. Who is required to purchase and wear a uniform or other clothing, accessories or safety equipment while performing the person's duties for the State as a peace officer,

→ may, after first obtaining the written approval of the Director of the Office of Finance, reimburse that person for the cost to repair or replace the person's required uniform or other clothing, accessories or safety equipment if it is damaged or destroyed, by means other than ordinary wear and tear, while the person is performing the person's duties for the State as a peace officer.

**Sec. 13.** NRS 432.170 is hereby amended to read as follows:

432.170 1. The Attorney General shall:

(a) Establish a program to coordinate activities and information in this State concerning missing or exploited children; and

(b) Appoint a Director to administer the provisions of the program.

2. The Director is in the unclassified service of the State. To assist the Director in carrying out the provisions of NRS 432.150 to 432.220, inclusive, the Attorney General may appoint such assistants or investigators as deemed necessary by the Attorney General.

3. The Director may:

(a) Assist any public or private school in establishing a program of information about missing or exploited children by providing, free of charge, materials, publications and instructional aids relating to:

(1) Offenses under federal and state law regarding missing or exploited children and the abuse or neglect of children.

(2) Governmental and private agencies and programs for locating and identifying missing or exploited children, preventing the abduction or disappearance of children and preventing the abuse or neglect of children.

(3) Methods of preventing the abduction or disappearance of children.

(4) Techniques for the investigation of cases involving missing or exploited children.

(5) Any other issue involving missing or exploited children.

(b) Develop and maintain a system of information concerning missing or exploited children, including information concerning public or private resources which may be available to such children and their families.

(c) Accept gifts or donations on behalf of the Clearinghouse which must be accounted for separately and used by the Director in carrying out the provisions of NRS 432.150 to 432.220, inclusive.

(d) Enter into agreements with regional and national organizations for assistance and exchange of information concerning missing or exploited children.

(e) Assist in the investigation of children who are reported missing in this State or who are reported abducted or taken from this State.

4. The Director may provide the materials, publications and instructional aids identified in paragraph (a) of subsection 3 to any other person or governmental agency for a reasonable fee not to exceed the cost of preparing the materials.

~~{5. The Director shall, upon request, provide records regarding a missing child to the State Disaster Identification Team of the Division of Emergency Management of the Department of Public Safety.}~~

**Sec. 14.** Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. To the extent feasible, every provider of health care to whom any person comes or is brought for the treatment of an injury which the provider concludes was inflicted during the existence of a state of emergency or declaration of disaster pursuant to NRS 414.070 or an illness which the provider concludes was contracted during a public health emergency or other health event pursuant to NRS 439.970 shall submit a written report electronically to the State Disaster Identification Coordination Committee on a form prescribed by the State Disaster Identification Coordination Committee.*

*2. The report required by subsection 1 must include, without limitation:*

*(a) The name, address, telephone number and electronic mail address of the person treated, if known;*

*(b) The location where the person was treated; and*

*(c) The character or extent of the injuries or illness of the person treated.*

*3. A provider of health care and his or her agents and employees are immune from any civil action for any disclosures made in good faith in accordance with the provisions of this section.*

**Sec. 15.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 16.** NRS 414.290 is hereby repealed.

**Sec. 17.** This act becomes effective upon passage and approval.

#### **TEXT OF REPEALED SECTION**

**414.290 Access to certain records and information when carrying out duties.** In carrying out its duties pursuant to NRS 414.280, the State Disaster Identification Team may have access to:

1. The information that is contained in the Central Repository for Nevada Records of Criminal History pursuant to NRS 179A.075.

2. The records of criminal history maintained by an agency of criminal justice pursuant to NRS 179A.100.

3. The records of missing children maintained by the Attorney General pursuant to NRS 432.170.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 121.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:  
Amendment No. 818.

AN ACT relating to fiduciaries; adopting a power of attorney for health care decisions for persons with any form of dementia; revising provisions relating to the authority of a principal under a power of attorney; revising provisions governing the authority of public guardians to conduct certain investigations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law sets forth provisions governing durable powers of attorney for health care decisions. (NRS 162A.700-162A.865) Existing law specifically provides a form for a power of attorney for health care decisions and a form for a power of attorney for health care decisions for adults with intellectual disabilities. (NRS 162A.860, 162A.865) **Section 1.5** of this bill provides a form for a power of attorney for health care decisions for persons with any form of dementia that is based on the form for a power of attorney for health care decisions for adults with intellectual disabilities. **Sections 4, 5 and 6** of this bill make conforming changes.

**Sections 2 and 3** of this bill specify that a person who has executed a power of attorney for financial matters continues to have the authority to act on his or her own behalf and that any decision or instruction communicated by that person supersedes any decision or instruction communicated by an agent appointed under the power of attorney, unless the power of attorney removes this authority.

Existing law requires certain forms relating to the appointment of a guardian, a general power of attorney, a power of attorney for health care decisions and a power of attorney for health care decisions for an adult with an intellectual disability to be notarized with a declaration from the notary public declaring under penalty of perjury that the persons whose names are on the form appear to be of sound mind and under no duress, fraud or undue influence. (NRS 159.0753, 162A.620, 162A.860, 162A.865) **Sections 1, 3, 6 and 6.5** of this bill remove the declaration required by a notary public. **Section 1.5** removes the same declaration for the form for a power of attorney for health care decisions for persons with any form of dementia.

Existing law authorizes a public guardian to: (1) investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator in accordance with existing law; and (2) require any person for whom the public guardian has been appointed as guardian or any spouse, parent, child or other relative of that person to give any information or execute any written requests or authorizations necessary to provide the public guardian with access to records needed by the public guardian. (NRS 253.220) **Section 7** of this bill ~~authorizes the public guardian of any county to take such actions with respect to a protected person. Section~~

74 additionally authorizes a public guardian of a county with a population of less than 100,000 to petition a court to take these actions with respect to any potential protected person for whom the public guardian has received a referral from the Aging and Disability Services Division of the Department of Health and Human Services, a law enforcement agency or a court in connection with a civil or criminal matter relating to the potential protected person. **Section 7** defines “potential protected person” and “protected person” for the purposes of this section.

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

**Section 1.** NRS 159.0753 is hereby amended to read as follows:

159.0753 1. Any person who wishes to request to nominate another person to be appointed as his or her guardian may do so by completing a form requesting to nominate a guardian in accordance with this section.

2. A form requesting to nominate a guardian must be:

- (a) Signed by the person requesting to nominate a guardian;
- (b) Signed by two impartial adult witnesses who have no interest, financial or otherwise, in the estate of the person requesting to nominate a guardian and who attest that the person has the mental capacity to understand and execute the form; and
- (c) Notarized.

3. A request to nominate a guardian may be in substantially the following form, and must be witnessed and executed in the same manner as the following form:

#### REQUEST TO NOMINATE GUARDIAN

I, ..... (insert your name), residing at ..... (insert your address), am executing this notarized document as my written declaration and request for the person(s) designated below to be appointed as my guardian should it become necessary. I am advising the court and all persons and entities as follows:

1. As of the date I am executing this request to nominate a guardian, I have the mental capacity to understand and execute this request.

2. This request pertains to a (circle one): (guardian of the person)/(guardian of the estate)/(guardian of the person and estate).

3. Should the need arise, I request that the court give my preference to the person(s) designated below to serve as my appointed guardian.

4. I request that my ..... (insert relation), ..... (insert name), serve as my appointed guardian.

5. If ..... (insert name) is unable or unwilling to serve as my appointed guardian, then I request that my ..... (insert relation), ..... (insert name), serve as my appointed guardian.

6. I do not, under any circumstances, desire to have any private, for-profit guardian serve as my appointed guardian.

(YOU MUST DATE AND SIGN THIS DOCUMENT)

I sign my name to this document on ..... (date)

.....  
(Signature)

(YOU MUST HAVE TWO QUALIFIED ADULT WITNESSES DATE AND SIGN THIS DOCUMENT)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed this request to nominate a guardian in my presence, that the principal appears to be of sound mind, has the mental capacity to understand and execute this document and is under no duress, fraud or undue influence, and that I have no interest, financial or otherwise, in the estate of the principal.

.....  
(Signature of first witness)

.....  
(Print name)

.....  
(Date)

.....  
(Signature of second witness)

.....  
(Print name)

.....  
(Date)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

State of Nevada }  
 }  
County of ..... }

On this ..... day of ....., in the year ....., before me, ..... (insert name of notary public), personally appeared ..... (insert name of principal), ..... (insert name of first witness) and ..... (insert name of second witness), personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they have signed this instrument. ~~I declare under penalty of perjury that the persons whose names are subscribed to this instrument appear to be of sound mind and under no duress, fraud or undue influence.~~

.....  
 (Signature of notarial officer)  
 (Seal, if any)

4. The Secretary of State shall make the form established in subsection 3 available on the Internet website of the Secretary of State.

5. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

**Sec. 1.5.** Chapter 162A of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The form of a power of attorney for health care for an adult with any form of dementia may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:***

***DURABLE POWER OF ATTORNEY  
 FOR HEALTH CARE DECISIONS***

*My name is ..... (insert your name) and my address is ..... (insert your address). I would like to designate ..... (insert the name of the person you wish to designate as your agent for health care decisions for you) as my agent for health care decisions for me if I am sick or hurt and need to see a doctor or go to the hospital. I understand what this means.*

*If I am sick or hurt, my agent should take me to the doctor. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor's office. I would like the doctor to speak with my agent and, if I have the capacity to understand, me about my sickness or injury and whether I need any medicine or other treatment. After we speak with the doctor, if I have the capacity to understand, I would like my agent to speak with me about the care or treatment. When we have made decisions about the care or treatment, my agent will tell the doctor about our decisions and sign any necessary papers.*

*If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard to care for me. If I am able to communicate, I would like the doctor at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. After we speak with the doctor, I would like my agent to help me decide what care or treatment I should receive. Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.*

*I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.*

*I would also like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.*

*I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling my agent that he or she is no longer my agent or by putting it in writing.*

*If my agent is unable to make health care decisions for me, then I designate ..... (insert the name of another person you wish to designate as your alternative agent to make health care decisions for you) as my agent to make health care decisions for me as authorized in this document.*

**(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)**

*I sign my name to this Durable Power of Attorney for Health Care on ..... (date) at ..... (city), ..... (state)*

.....  
(Signature)

**AGENT SIGNATURE**

*As agent for ..... (insert name of principal), I agree that a physician, health care facility or other provider of health care, acting in good faith, may rely on this power of attorney for health care and the signatures herein, and I understand that pursuant to NRS 162A.815, a physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.*

*I also agree that:*

*1. I have a duty to act in a manner consistent with the desires of ..... (insert name of principal) as stated in this document or otherwise made known by ..... (insert name of principal), or if his or her desires are unknown, to act in his or her best interest.*

*2. If ..... (insert name of principal) revokes this power of attorney at any time, either verbally or in writing, I have a duty to inform any persons who may rely on this document, including, without limitation,*



*treating physicians, hospital staff or other providers of health care, that I no longer have the authorities described in this document.*

*3. The provisions of NRS 162A.840 prohibit me from being named as an agent to make health care decisions in this document if I am a provider of health care, an employee of the principal's provider of health care or an operator or employee of a health care facility caring for the principal, unless I am the spouse, legal guardian or next of kin of the principal.*

*4. The provisions of NRS 162A.850 prohibit me from consenting to the following types of care or treatments on behalf of the principal, including, without limitation:*

- (a) Commitment or placement of the principal in a facility for treatment of mental illness;*
- (b) Convulsive treatment;*
- (c) Psychosurgery;*
- (d) Sterilization;*
- (e) Abortion;*
- (f) Aversive intervention, as it is defined in NRS 449A.203;*
- (g) Experimental medical, biomedical or behavioral treatment, or participation in any medical, biomedical or behavioral research program; or*
- (h) Any other care or treatment to which the principal prohibits the agent from consenting in this document.*

*5. End-of-life decisions must be made according to the wishes of ..... (insert name of principal), as designated in the attached addendum. If his or her wishes are not known, such decisions must be made in consultation with the principal's treating physicians.*

*Signature: ..... Residence Address: .....*  
*Print Name: ..... .....*  
*Date: ..... .....*  
*Relationship to principal: .....*  
*Length of relationship to principal: .....*

***(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)***

***CERTIFICATE OF ACKNOWLEDGMENT  
OF NOTARY PUBLIC***

*(You may use acknowledgment before a notary public instead of the statement of witnesses.)*

State of Nevada }  
 }ss.  
County of .....}

On this ..... day of ....., in the year ....., before me, ..... (here insert name of notary public) personally appeared ..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

NOTARY SEAL .....  
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address: .....  
Print Name: .....  
Date: .....

Signature: ..... Residence Address: .....  
Print Name: .....  
Date: .....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....

Signature: .....

Names: ..... Address: .....

Print Name: ..... .....

Date: ..... .....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

2. The form for end-of-life decisions of a power of attorney for health care for an adult with any form of dementia may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

END-OF-LIFE DECISIONS ADDENDUM  
STATEMENT OF DESIRES

(You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.)

..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live, ..... (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.

If you are not able to talk to ..... (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.

Here are your choices. Please circle yes or no to each of the following statements and sign your name below:

1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO

2. I do not want to take medicine or receive treatment if my doctors think that the medicine or treatment will not help me. YES NO

3. I do not want to take medicine or receive treatment if I am very sick

*and suffering and the medicine or treatment will not help me get better.* YES NO

*4. I want to get food and water even if I do not want to take medicine or receive treatment.* YES NO

**(YOU MUST DATE AND SIGN THIS END-OF-LIFE DECISIONS ADDENDUM)**

*I sign my name to this End-of-Life Decisions Addendum on ..... (date) at ..... (city), ..... (state)*

.....  
(Signature)

**(THIS END-OF-LIFE DECISIONS ADDENDUM WILL NOT BE VALID UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE; OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)**

**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**

*(You may use acknowledgment before a notary public instead of the statement of witnesses.)*

*State of Nevada }  
  }ss.  
County of ..... }*

*On this ..... day of ....., in the year ....., before me, ..... (here insert name of notary public) personally appeared ..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.*

**NOTARY SEAL** .....  
(Signature)

**STATEMENT OF WITNESSES**

*(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must*

*make the additional declaration set out following the place where the witnesses sign.)*

*I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this End-of-Life Decisions Addendum in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by the power of attorney for health care and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.*

*Signature: ..... Residence Address: .....*

*Print Name: ..... .....*

*Date: ..... .....*

*Signature: ..... Residence Address: .....*

*Print Name: ..... .....*

*Date: ..... .....*

**(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)**

*I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.*

*Signature: .....*

*Signature: .....*

-----  
*Names: ..... Address: .....*

*Print Name: ..... .....*

*Date: ..... .....*

**COPIES: You should retain an executed copy of this document and give one to your agent. The End-of-Life Decisions Addendum should be available so a copy may be given to your providers of health care.**

**Sec. 2.** NRS 162A.460 is hereby amended to read as follows:

162A.460 1. Except as otherwise provided in NRS 162A.450, if a power of attorney grants to an agent authority to do all acts that a principal could do or refers to general authority or cites a section of NRS 162A.200 to 162A.660, inclusive, in which the authority is described, the agent has the general authority described in NRS 162A.200 to 162A.660, inclusive.

2. A reference in a power of attorney to any part of a section in NRS 162A.200 to 162A.660, inclusive, incorporates the entire section as if it were set out in full in the power of attorney.

3. A principal may modify authority incorporated by reference.

4. Except as otherwise provided in NRS 162A.450, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

5. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

6. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

**7. *Except as otherwise expressly provided in a power of attorney, the authority of a principal to act on his or her own behalf continues after executing a power of attorney and any decision or instruction communicated by the principal supersedes any inconsistent decision or instruction communicated by an agent pursuant to a power of attorney.***

**Sec. 3.** NRS 162A.620 is hereby amended to read as follows:

162A.620 A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by NRS 162A.200 to 162A.660, inclusive:

#### STATUTORY FORM POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR FINANCIAL MATTERS. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU. YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

2. THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

3. THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.

4. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

5. YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE,

GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

6. YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

7. THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A CO-AGENT IN THE SPECIAL INSTRUCTIONS. CO-AGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.

8. IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.

9. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT.

10. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY.

11. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF AGENT.

I, .....  
(insert your name) do hereby designate and appoint:

Name: .....  
Address: .....  
Telephone Number: .....

as my agent to make decisions for me and in my name, place and stead and for my use and benefit and to exercise the powers as authorized in this document.

2. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same decisions as the agent designated above in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If my agent is unable or unwilling to act for me, then I designate the following person(s) to serve as my agent as authorized in this document, such person(s) to serve in the order listed below:

A. First Alternative Agent

Name: .....

Address:.....

Telephone Number:.....

B. Second Alternative Agent

Name: .....

Address:.....

Telephone Number:.....

3. OTHER POWERS OF ATTORNEY.

This Power of Attorney is intended to, and does, revoke any prior Power of Attorney for financial matters I have previously executed.

4. NOMINATION OF GUARDIAN.

If, after execution of this Power of Attorney, proceedings seeking an adjudication of incapacity are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

5. GRANT OF GENERAL AUTHORITY.

I grant my agent and any successor agent(s) general authority to act for me with respect to the following subjects:

(INITIAL each subject you want to include in the agent’s general authority. If you wish to grant general authority over all of the subjects you may initial “All Preceding Subjects” instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Safe Deposit Boxes
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts and Other Beneficial Interests
- Legal Affairs, Claims and Litigation
- Personal Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

6. GRANT OF SPECIFIC AUTHORITY.

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:



(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- [.....] Create, amend, revoke or terminate an inter vivos, family, living, irrevocable or revocable trust
- [.....] Make a gift, subject to the limitations of NRS and any special instructions in this Power of Attorney
- [.....] Create or change rights of survivorship
- [.....] Create or change a beneficiary designation
- [.....] Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- [.....] Exercise fiduciary powers that the principal has authority to delegate
- [.....] Disclaim or refuse an interest in property, including a power of appointment

7. LIMITATION ON AGENT'S AUTHORITY.

An agent that is not my spouse MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

8. SPECIAL INSTRUCTIONS OR OTHER OR ADDITIONAL AUTHORITY GRANTED TO AGENT:

.....

.....

.....

.....

9. AUTHORITY OF PRINCIPAL.

*Except as otherwise expressly provided in this Power of Attorney, the authority of a principal to act on his or her own behalf continues after executing this Power of Attorney and any decision or instruction communicated by the principal supersedes any inconsistent decision or instruction communicated by an agent appointed pursuant to this Power of Attorney.*

10. DURABILITY AND EFFECTIVE DATE. (INITIAL the clause(s) that applies.)

[.....] DURABLE. This Power of Attorney shall not be affected by my subsequent disability or incapacity.

[.....] SPRINGING POWER. It is my intention and direction that my designated agent, and any person or entity that my designated agent may transact business with on my behalf, may rely on a written medical opinion issued by a licensed medical doctor stating that I am disabled or incapacitated, and incapable of managing my affairs, and that said medical opinion shall establish whether or not I am under a disability for

the purpose of establishing the authority of my designated agent to act in accordance with this Power of Attorney.

[.....] I wish to have this Power of Attorney become effective on the following date: .....

[.....] I wish to have this Power of Attorney end on the following date: .....

~~10~~ 11. THIRD PARTY PROTECTION.

Third parties may rely upon the validity of this Power of Attorney or a copy and the representations of my agent as to all matters relating to any power granted to my agent, and no person or agency who relies upon the representation of my agent, or the authority granted by my agent, shall incur any liability to me or my estate as a result of permitting my agent to exercise any power unless a third party knows or has reason to know this Power of Attorney has terminated or is invalid.

~~11~~ 12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information, by any government agency, business, creditor or third party who may have information pertaining to my assets or income, to my agent named herein.

~~12~~ 13. SIGNATURE AND ACKNOWLEDGMENT. YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY. THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS ACKNOWLEDGED BEFORE A NOTARY PUBLIC.

I sign my name to this Power of Attorney on ..... (date) at ..... (city), ..... (state)

.....  
(Signature)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }  
 } ss.  
County of ..... }

On this ..... day of ....., in the year ....., before me, ..... (here insert name of notary public) personally appeared ..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. ~~I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.~~

NOTARY SEAL

.....  
 (Signature of Notary Public)

#### IMPORTANT INFORMATION FOR AGENT

1. Agent's Duties. When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the Power of Attorney is terminated or revoked. You must:

(a) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(b) Act in good faith;

(c) Do nothing beyond the authority granted in this Power of Attorney;  
 and

(d) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

2. Unless the Special Instructions in this Power of Attorney state otherwise, you must also:

(a) Act loyally for the principal's benefit;

(b) Avoid conflicts that would impair your ability to act in the principal's best interest;

(c) Act with care, competence, and diligence;

(d) Keep a record of all receipts, disbursements and transactions made on behalf of the principal;

(e) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(f) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

3. Termination of Agent's Authority. You must stop acting on behalf of the principal if you learn of any event that terminates this Power of Attorney or your authority under this Power of Attorney. Events that terminate a Power of Attorney or your authority to act under a Power of Attorney include:

(a) Death of the principal;

(b) The principal's revocation of the Power of Attorney or your authority;

(c) The occurrence of a termination event stated in the Power of Attorney;

(d) The purpose of the Power of Attorney is fully accomplished; or

(e) If you are married to the principal, your marriage is dissolved.

4. Liability of Agent. The meaning of the authority granted to you is defined in NRS 162A.200 to 162A.660, inclusive. If you violate NRS 162A.200 to 162A.660, inclusive, or act outside the authority granted in this Power of Attorney, you may be liable for any damages caused by your violation.

5. If there is anything about this document or your duties that you do not understand, you should seek legal advice.

**Sec. 4.** NRS 162A.700 is hereby amended to read as follows:

162A.700 NRS 162A.700 to 162A.865, inclusive, **and section 1.5 of this act** apply to any power of attorney containing the authority to make health care decisions.

**Sec. 5.** NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.865, inclusive, **and section 1.5 of this act**, unless the context otherwise requires, the words and terms defined in NRS 162A.720 to 162A.780, inclusive, have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 162A.860 is hereby amended to read as follows:

162A.860 Except as otherwise provided in NRS 162A.865, **and section 1.5 of this act**, the form of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY  
FOR HEALTH CARE DECISIONS

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN

OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I, .....  
(insert your name) do hereby designate and appoint:

Name: .....

Address: .....

Telephone Number: .....

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers

to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....  
.....  
.....  
.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date: .....

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

(If the statement reflects your desires, initial the box next to the statement.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures

[ .....]

2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of

NRS 449A.400 to 449A.481, inclusive, if this subparagraph is initialed.) [ .....]

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449A.400 to 449A.481, inclusive, if this subparagraph is initialed.) [ .....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld. [ .....]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [ .....]

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:

.....  
.....  
.....  
.....  
.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:



A. First Alternative Agent

Name: .....  
Address:.....  
Telephone Number:.....

B. Second Alternative Agent

Name: .....  
Address:.....  
Telephone Number:.....

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, proceedings seeking an adjudication of incapacity are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on ..... (date) at ..... (city), ..... (state)

.....  
(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1)

SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
} ss.
County of ..... }

On this..... day of....., in the year..., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL .....
(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address:.....

Print Name: ..... .....

Date: ..... .....

Signature: ..... Residence Address:.....

Print Name: ..... .....

Date: ..... .....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....

Signature: .....

Names: ..... Address: .....

Print Name: ..... .....

Date: ..... .....

COPIES: You should retain an executed copy of this document and give one to your agent. The End-of-Life Decisions Addendum should be available so a copy may be given to your providers of health care.

Sec. 6.5. NRS 162A.865 is hereby amended to read as follows:

162A.865 1. The form of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

My name is..... (insert your name) and my address is..... (insert your address). I would like to designate..... (insert the name of the person you wish to designate as your agent for health care decisions for you) as my agent for health care decisions for me if I am sick or hurt and need to see a doctor or go to the hospital. I understand what this means.

If I am sick or hurt, my agent should take me to the doctor. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor's office. I would like the doctor to speak with my agent and me about my sickness or injury and whether I need any medicine or other treatment. After we speak with the doctor, I would like my agent to speak with me about the care or treatment. When

we have made decisions about the care or treatment, my agent will tell the doctor about our decisions and sign any necessary papers.

If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard to care for me. If I am able to communicate, I would like the doctor at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. After we speak with the doctor, I would like my agent to help me decide what care or treatment I should receive. Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.

I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.

I would also like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.

I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling my agent that he or she is no longer my agent or by putting it in writing.

If my agent is unable to make health care decisions for me, then I designate..... (insert the name of another person you wish to designate as your alternative agent to make health care decisions for you) as my agent to make health care decisions for me as authorized in this document.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on ..... (date) at ..... (city), ..... (state)

.....  
(Signature)

AGENT SIGNATURE

As agent for..... (insert name of principal), I agree that a physician, health care facility or other provider of health care, acting in good faith, may rely on this power of attorney for health care and the signatures herein, and I understand that pursuant to NRS 162A.815, a physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject

to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.

I also agree that:

1. I have a duty to act in a manner consistent with the desires of..... (insert name of principal) as stated in this document or otherwise made known by..... (insert name of principal), or if his or her desires are unknown, to act in his or her best interest.

2. If..... (insert name of principal) revokes this power of attorney at any time, either verbally or in writing, I have a duty to inform any persons who may rely on this document, including, without limitation, treating physicians, hospital staff or other providers of health care, that I no longer have the authorities described in this document.

3. The provisions of NRS 162A.840 prohibit me from being named as an agent to make health care decisions in this document if I am a provider of health care, an employee of the principal's provider of health care or an operator or employee of a health care facility caring for the principal, unless I am the spouse, legal guardian or next of kin of the principal.

4. The provisions of NRS 162A.850 prohibit me from consenting to the following types of care or treatments on behalf of the principal, including, without limitation:

- (a) Commitment or placement of the principal in a facility for treatment of mental illness;
  - (b) Convulsive treatment;
  - (c) Psychosurgery;
  - (d) Sterilization;
  - (e) Abortion;
  - (f) Aversive intervention, as it is defined in NRS 449A.203;
  - (g) Experimental medical, biomedical or behavioral treatment, or participation in any medical, biomedical or behavioral research program;
- or

(h) Any other care or treatment to which the principal prohibits the agent from consenting in this document.

5. End-of-life decisions must be made according to the wishes of..... (insert name of principal), as designated in the attached addendum. If his or her wishes are not known, such decisions must be made in consultation with the principal's treating physicians.

Signature: ..... Residence Address: .....

Print Name: ..... .....

Date: ..... .....

Relationship to principal: .....

Length of relationship to principal: .....

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
} ss.
County of ..... }

On this..... day of....., in the year...., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL .....
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address: .....

Print Name: ..... .....

Date: ..... .....

Signature: ..... Residence Address: .....

Print Name: ..... .....

Date: ..... .....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....

Signature: .....

Names: ..... Address: .....

Print Name: ..... .....

Date: ..... .....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

2. The form for end-of-life decisions of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

END-OF-LIFE DECISIONS ADDENDUM  
STATEMENT OF DESIRES

(You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.)

..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live..... (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.

If you are not able to talk to..... (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.

Here are your choices. Please circle yes or no to each of the following statements and sign your name below:

- 1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO
- 2. I do not want to take medicine or receive treatment if my doctors think that the medicine or treatment will not help me. YES NO
- 3. I do not want to take medicine or receive treatment if I am very sick and suffering and the medicine or treatment will not help me get better. YES NO
- 4. I want to get food and water even if I do not want to take medicine or receive treatment. YES NO

(YOU MUST DATE AND SIGN THIS END-OF-LIFE DECISIONS ADDENDUM)

I sign my name to this End-of-Life Decisions Addendum on ..... (date) at ..... (city), ..... (state) ..... (Signature)

(THIS END-OF-LIFE DECISIONS ADDENDUM WILL NOT BE VALID UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada } }ss. County of ..... }

On this..... day of....., in the year...., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. ~~I declare under~~



~~penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.~~

NOTARY SEAL

.....  
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this End-of-Life Decisions Addendum in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by the power of attorney for health care and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address: .....  
Print Name: .....  
Date: .....

Signature: ..... Residence Address: .....  
Print Name: .....  
Date: .....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....

Signature: .....

-----  
Names: ..... Address: .....  
Print Name: .....  
Date: .....

COPIES: You should retain an executed copy of this document and give one to your agent. The End-of-Life Decisions Addendum should be available so a copy may be given to your providers of health care.

**Sec. 7.** NRS 253.220 is hereby amended to read as follows:

253.220 **1.** A *public guardian may investigate the financial status, assets and personal and family history of any protected person ~~for whom the public guardian has been appointed as guardian,~~ without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require ~~any~~ the protected person or any spouse, parent, child or other kindred of the protected person, to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.*

**2.** *In a county whose population is less than 100,000, a public guardian may petition a court to investigate the financial status, assets and personal and family history of any ~~person for whom the public guardian has been appointed as guardian,~~ potential protected person for whom the public guardian has received a referral from the Aging and Disability Services Division of the Department of Health and Human Services, a law enforcement agency or a court in connection with a criminal or civil matter relating to the potential protected person, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require ~~any protected person~~ the potential protected person or any spouse, parent, child or other kindred of the ~~protected person~~ potential protected person, to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.*

**3.** *As used in this section:*

*(a) "Potential protected person" means any person, other than a minor, for whom a referral for investigation has been sent to the public guardian.*

*(b) "Protected person" has the meaning ascribed to it in NRS 159.0253.*

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 131.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 779.

AN ACT relating to trade practices; establishing additional requirements related to the resale of tickets to an athletic contest or live entertainment event; revising provisions governing ~~the recovery which a plaintiff may be awarded in a~~ civil ~~action~~ **actions** for a violation of certain requirements related to the resale of tickets to an athletic contest or live entertainment event; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a number of deceptive trade practices, including, without limitation, knowing violations of requirements related to the resale of tickets to athletic contests and live entertainment events. (NRS 598.09223, 598.397-598.3984) Under existing law, the Attorney General, the Commissioner of Consumer Affairs and the Director of the Department of Business and Industry are authorized to investigate deceptive trade practices and take certain actions to penalize persons who commit a deceptive trade practice, which may include, without limitation, criminal prosecution and the imposition of civil penalties. (NRS 598.0903-598.0999) This bill imposes additional requirements related to the sale of tickets to athletic contests and live entertainment events and makes a knowing violation of those requirements a deceptive trade practice.

**Section 3** of this bill prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket without disclosing the total amount to be charged for the ticket, including a disclosure of the fees to be charged.

**Section 6** of this bill requires a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange to display within the top 20 percent of each page of his or her website a notice that the website belongs to a reseller, a secondary ticket exchange or an affiliate of a reseller or secondary ticket exchange. **Section 6** also prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from advertising or representing on its Internet website that the reseller, secondary ticket exchange or affiliate of the reseller or secondary ticket exchange is a person **who has the right to make the initial sale of a ticket to a consumer** or who has the initial ownership rights to a ticket before its public sale, without contractual authorization to do so from the person or entity who has the initial ownership rights to the ticket before its public sale.

**Section 7** of this bill prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket without first disclosing to the purchaser the location **in the entertainment facility** of the seat or the general admission area to which the ticket corresponds. **Section 7** also prohibits a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange from reselling a ticket or advertising a ticket for resale unless the reseller has the ticket in his or her possession **or constructive possession**, or has a written contract to obtain the ticket from a person who has the initial **ownership** rights to **sell** a ticket prior

to its public sale. **Section 7** also prohibits a primary ticket provider, a reseller, a secondary ticket exchange or any affiliate of a primary ticket provider, a reseller or a secondary ticket exchange from reselling a ticket before the ticket has been made available to the public by the person who has the initial ownership rights to the ticket before its public sale without first obtaining authorization to do so from the person or entity who has initial ownership rights to the ticket before its public sale.

Existing law prohibits a person from using an Internet robot to circumvent any portion of the process for purchasing a ticket on an Internet website or to disguise the identity of a ticket purchaser so as to purchase a number of tickets exceeding the maximum number of tickets allowed for purchase by a person. (NRS 598.398) **Section 8** of this bill prohibits a person from reselling or offering for resale a ticket that was obtained in violation of these provisions on the misuse of Internet robots if the person participated in or had the ability to control the conduct which constituted the violation or knew ~~for reasonably should have known~~ that the ticket was acquired in violation of the prohibition on the misuse of Internet robots.

Existing law authorizes a person injured by any violation of the requirements related to ticket resales to bring a civil action to seek: (1) declaratory and injunctive relief; and (2) actual damages or \$100, whichever is greater. (NRS 598.3982) **Section 10** of this bill: **(1) specifies that such an action may be brought in district court; (2) increases the amount of damages that a person can seek for a first violation of the requirements related to ticket resales; and (3) provides for increasing damages and penalties for each subsequent violation. Section 10 also specifies the county in which such an action may be brought.**

Existing law requires the Bureau of Consumer Protection in the Office of the Attorney General to establish a statewide hotline and Internet website by which a person can file a complaint related to a deceptive trade practice involving ticket resellers and secondary ticket exchanges. (NRS 598.3981) **Section 9** of this bill requires the statewide hotline and Internet website to provide information and directions regarding the preferred method for filing such a complaint. **Section 9** also requires that any form made available by the Bureau of Consumer Protection for receiving such complaints be ~~no longer than two pages and be~~ designed specifically for receiving such complaints.

**Sections 1.5, 2, 4, 5, 11 and 12** of this bill define terms and make conforming changes.

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

**Section 1.** Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

**Sec. 1.5.** *“Primary ticket provider” means any person or entity who is authorized by a written contract with a rights holder to make the initial sale to a consumer of a ticket to an athletic contest or live entertainment event.*

**Sec. 2. "Rights holder":**

**1. Means any person or entity who has the initial ownership rights to sell a ticket to an athletic contest or live entertainment event for which tickets for entry by the public are required.**

**2. Does not include a primary ticket provider, unless the primary ticket provider is also the rights holder.**

**Sec. 3. A reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange shall not resell a ticket, in person or remotely, without first disclosing to the purchaser the total amount that the purchaser will be charged for the ticket, including any fees which represent a portion of the total amount to be charged.**

**Sec. 4.** NRS 598.09223 is hereby amended to read as follows:

598.09223 A person engages in a "deceptive trade practice" when, in the course of his or her business or occupation, he or she knowingly violates a provision of NRS 598.397 to 598.3984, inclusive ~~†~~, **and sections 1.5, 2 and 3 of this act.**

**Sec. 5.** NRS 598.397 is hereby amended to read as follows:

598.397 As used in NRS 598.397 to 598.3984, inclusive, **and sections 1.5, 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 598.3971 to 598.3977, inclusive, **and sections 1.5 and 2 of this act** have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 598.3978 is hereby amended to read as follows:

598.3978 1. The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must not display a trademarked or copyrighted URL, title, designation, image or mark or other symbol without the written consent of the trademark or copyright holder.

2. The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must not use any combination of text, images, web designs or Internet addresses, or any combination thereof, which is substantially similar to the Internet website of an entertainment facility, athletic contest or live entertainment event without permission.

3. **The Internet website of a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange must prominently display a notice identifying the Internet website as belonging to a reseller, a secondary ticket exchange or an affiliate of a reseller or secondary ticket exchange and must not, without contractual authorization from the rights holder, advertise or represent that the reseller, secondary ticket exchange or affiliate of the reseller or secondary ticket exchange is a rights holder or primary ticket provider. The notice required by this subsection must be displayed within the top 20 percent of each page of the Internet website in a font size that is not smaller than the font size used for the majority of text on that page.**

4. This section does not prohibit the use of text containing the name of the venue, artist, athletic contest or live entertainment event if such use is necessary to describe the athletic contest, the live entertainment event or the location of the athletic contest or live entertainment event.

~~4.1~~ 5. As used in this section:

(a) “Substantially similar” means that a reasonable person would believe that the Internet website is that of the entertainment facility, athletic contest or live entertainment event.

(b) “URL” means the Uniform Resource Locator associated with an Internet website.

Sec. 7. NRS 598.3979 is hereby amended to read as follows:

598.3979 ~~1A1~~

1. *In addition to any other restrictions imposed by the rights holder, a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange shall not:*

~~1.1~~ (a) Resell more than one copy of the same ticket to an athletic contest or live entertainment event.

~~1.2~~ (b) Employ another person directly or indirectly to wait in line to purchase tickets for the purpose of reselling the tickets if the practice is prohibited by the sponsor, organizer or promoter of the athletic contest or live entertainment event or if the venue at which the athletic contest or live entertainment event will occur has posted a policy prohibiting the practice.

(c) *Resell a ticket without first informing the purchaser of the location in the entertainment facility of the seat or, if there is no assigned seat, the general admission area to which the ticket corresponds, including, without limitation, the ~~seat,~~ row and section number of the ticket, as applicable.*

(d) *Resell a ticket or advertise a ticket for resale, unless:*

(1) *The ticket is in the possession or constructive possession of the reseller; or*

(2) *The reseller has a written contract with the rights holder to obtain the ticket.*

2. *A primary ticket provider, a reseller, a secondary ticket exchange or any affiliate of a primary ticket provider, reseller or secondary ticket exchange shall not resell a ticket before the ticket has been made available to the public, including, without limitation, through a presale, fan club presale or any other promotional presale event, by the rights holder without first obtaining permission from the rights holder to do so.*

Sec. 8. NRS 598.398 is hereby amended to read as follows:

598.398 1. A person shall not use an Internet robot to:

~~1.1~~ (a) Circumvent any portion of the process for purchasing a ticket on an Internet website, including, without limitation, any security or identity validation measures or an access control system; or

~~1.2~~ (b) Disguise the identity of a ticket purchaser for the purpose of purchasing a number of tickets for admission to an athletic contest or live

entertainment event which exceeds the maximum number of tickets allowed for purchase by a person.

**2. A person shall not resell or offer for resale a ticket obtained in violation of subsection 1 if the person:**

**(a) Participated in or had the ability to control the conduct committed in violation of subsection 1; or**

**(b) ~~Knew for reasonably should have known~~ that the ticket was acquired in violation of subsection 1.**

**Sec. 9.** NRS 598.3981 is hereby amended to read as follows:

598.3981 **1.** The Bureau of Consumer Protection in the Office of the Attorney General shall establish a toll-free statewide hotline and an Internet website by which a person may file a complaint relating to a suspected violation of NRS 598.397 to 598.3984, inclusive ~~††~~, **and sections 1.5, 2 and 3 of this act, and obtain information and directions regarding the preferred method for filing such a complaint.**

**2. Any form made available by the Bureau of Consumer Protection for receiving complaints relating to a suspected violation of NRS 598.397 to 598.3984, inclusive, and sections 1.5, 2 and 3 of this act must be ~~not longer than two pages and~~ designed specifically for receiving such complaints.**

**Sec. 10.** NRS 598.3982 is hereby amended to read as follows:

598.3982 **1.** A person injured by a violation of any provision of NRS 598.397 to 598.3984, inclusive, **and sections 1.5, 2 and 3 of this act** may bring a civil action ~~in a court of competent jurisdiction~~ against a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange who committed the violation ~~to seek~~ **in a district court in any county:**

**(a) In which the cause therefor accrued;**

**(b) In which the defendant resides or may be found;**

**(c) In which the plaintiff resides; or**

**(d) In which an athletic contest or live entertainment event to which the ticket pertains occurred or will occur, if the violation relates to the sale, purchase or advertisement of a ticket.**

**2. If the person bringing the action is the prevailing party, the court shall award that person:**

(a) Declaratory and injunctive relief.

(b) ~~Actual~~ **For the first violation, \$1,000 or actual damages, ~~for \$100,~~** whichever is greater.

(c) **For the second violation, \$2,500, treble the amount of actual damages and reasonable attorney's fees and costs, if any.**

(d) **For the third and all subsequent violations, \$5,000, treble the amount of actual damages, reasonable attorney's fees and costs, if any, and punitive damages, which are subject to the provisions of NRS 42.005.**

~~††~~ **3.** An action may not be brought pursuant to this section against a natural person employed by a reseller, a secondary ticket exchange or any affiliate of a reseller or secondary ticket exchange.

**Sec. 11.** NRS 598.3983 is hereby amended to read as follows:

598.3983 Unless a greater penalty is provided in NRS 598.0999 or 598.3984, a person who knowingly violates the provisions of NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act* is guilty of a misdemeanor.

**Sec. 12.** NRS 598.3984 is hereby amended to read as follows:

598.3984 1. A person who willfully and knowingly violates the provisions of NRS 598.397 to 598.3984, inclusive, *and sections 1.5, 2 and 3 of this act* relating to the sale of a ticket to an entertainment facility which is operated by a governmental entity or a public-private partnership is guilty of a gross misdemeanor.

2. As used in this section:

(a) “Governmental entity” means:

- (1) The government of this State;
- (2) An agency of the government of this State;
- (3) A political subdivision of this State; and
- (4) An agency of a political subdivision of this State.

(b) “Public-private partnership” means a contract entered into by a person and a governmental entity for the support of an entertainment facility.

**Sec. 13.** This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 185.

Bill read second time and ordered to third reading.

Senate Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 819.

AN ACT relating to domestic violence; revising provisions relating to temporary and extended orders for protection against domestic violence; revising provisions relating to the crime of battery which constitutes domestic violence; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law sets forth certain unlawful acts which constitute domestic violence when committed against certain persons. (NRS 33.018) Existing law authorizes a court to grant a temporary or extended order for protection against domestic violence. (NRS 33.020) **Section 1** of this bill prohibits a court, when determining whether to grant such an order, from considering any factor other than whether a petitioner was the victim of domestic violence or a threat thereof.



Existing law provides that a person is guilty of a misdemeanor for intentionally violating a temporary or extended order for protection against domestic violence. (NRS 33.100) ~~Section 3 of this bill [makes intentionally violating: (1) a temporary order for protection against domestic violence a gross misdemeanor; and (2)]~~ **provides that a person who intentionally violates an extended order for protection against domestic violence [a category C felony] and who has not previously violated such an order is guilty of a misdemeanor. Section 3 increases the penalty for intentionally violating such an extended order to: (1) a gross misdemeanor if the person has previously violated such an order one time; or (2) a category D felony if the person has previously violated such an order two or more times. Section 5 of this bill makes conforming changes.**

Existing law makes it a category B felony, punishable by a minimum term of imprisonment of 2 years and a maximum term of 15 years and a fine of not less than \$2,000 but not more than \$5,000, to commit a battery which constitutes domestic violence if the person has previously been convicted of: (1) a felony in this State for committing battery which constitutes domestic violence; (2) a battery which constitutes domestic violence that is committed by strangulation; or (3) a violation of the law of any other jurisdiction that prohibits conduct that is the same or similar to a felony in this State for committing a battery which constitutes domestic violence. (NRS 200.485) **Section 7** of this bill additionally provides that if such a person commits a battery which constitutes domestic violence and the person has previously been convicted of a battery with the use of a deadly weapon against a person who would otherwise qualify as a victim of domestic violence, the person is guilty of such a category B felony punishable by a minimum term of imprisonment of 2 years and a maximum term of 15 years, and a fine of not less than \$2,000 but not more than \$5,000. **Sections 2 and 4-6** of this bill make conforming changes.

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

**Section 1.** NRS 33.020 is hereby amended to read as follows:

33.020 1. If it appears to the satisfaction of the court from specific facts shown by a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence, the court may grant a temporary or extended order. *A court shall only consider whether the act of domestic violence or the threat thereof satisfies the requirements of NRS 33.018 without considering any other factor in its determination to grant the temporary or extended order.*

2. A temporary or extended order must not be granted to the applicant or the adverse party unless the applicant or the adverse party has requested the order and has filed a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence.

~~12-1~~ 3. The court may require the applicant or the adverse party, or both, to appear before the court before determining whether to grant the temporary or extended order.

~~13-1~~ 4. A temporary order may be granted with or without notice to the adverse party. An extended order may only be granted after notice to the adverse party and a hearing on the application.

~~14-1~~ 5. A hearing on an application for an extended order must be held within 45 days after the date on which the application for the extended order is filed. If the adverse party has not been served pursuant to NRS 33.060 or 33.065 and fails to appear at the hearing, the court may, upon a showing that law enforcement, after due diligence, has been unable to serve the adverse party or that the adverse party has sought to avoid service by concealment, set a date for a second hearing which must be held within 90 days after the date on which the first hearing was scheduled.

~~15-1~~ 6. If the adverse party has not been served pursuant to NRS 33.060 or 33.065 and fails to appear on the date set for a second hearing on an application for an extended order pursuant to subsection ~~14-1~~ 5, the court may, upon a showing that law enforcement, after due diligence, has been unable to serve the adverse party or that the adverse party has sought to avoid service by concealment, set a date for a third hearing which must be held within 90 days after the date on which the second hearing was scheduled.

~~16-1~~ 7. The court shall rule upon an application for a temporary order within 1 judicial day after it is filed.

~~17-1~~ 8. If it appears to the satisfaction of the court from specific facts communicated by telephone to the court by an alleged victim that an act of domestic violence has occurred and the alleged perpetrator of the domestic violence has been arrested and is presently in custody pursuant to NRS 171.137, the court may grant a temporary order. Before approving an order under such circumstances, the court shall confirm with the appropriate law enforcement agency that the applicant is an alleged victim and that the alleged perpetrator is in custody. Upon approval by the court, the signed order may be transmitted to the facility where the alleged perpetrator is in custody by electronic or telephonic transmission to a facsimile machine. If such an order is received by the facility holding the alleged perpetrator while the alleged perpetrator is still in custody, the order must be personally served by an authorized employee of the facility before the alleged perpetrator is released. The court shall mail a copy of each order issued pursuant to this subsection to the alleged victim named in the order and cause the original order to be filed with the court clerk on the first judicial day after it is issued.

~~18-1~~ 9. In a county whose population is 52,000 or more, the court shall be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of a temporary order pursuant to subsection ~~17-1~~ 8.

~~19.10.~~ 10. In a county whose population is less than 52,000, the court may be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of a temporary order pursuant to subsection ~~7.1~~ 8.

~~10.11.~~ 11. The clerk of the court shall inform the protected party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to NRS 33.095.

**Sec. 2.** NRS 33.080 is hereby amended to read as follows:

33.080 1. A temporary order expires within such time, not to exceed 30 days, as the court fixes. If an application for an extended order is filed within the period of a temporary order or at the same time that an application for a temporary order is filed, the temporary order remains in effect until:

(a) The hearing on the extended order is held; or

(b) If the court schedules a second or third hearing pursuant to subsection ~~4.5~~ or ~~5.6~~ of NRS 33.020, the date on which the second or third hearing on an application for an extended order is held.

2. On 2 days' notice to the party who obtained the temporary order, the adverse party may appear and move its dissolution or modification, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

3. An extended order expires within such time, not to exceed 1 year, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than 1 year.

**Sec. 3.** NRS 33.100 is hereby amended to read as follows:

33.100 ~~Unless a more severe penalty is prescribed by law for an act that constitutes a violation of an order, any~~ person who intentionally violates ~~it~~:

~~1. A temporary order is guilty of a gross misdemeanor;~~

~~2. An extended order is guilty of a misdemeanor. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, category C felony and shall be punished as provided in NRS 193.130.~~

2. An extended order and:

(a) Who has not previously violated an extended order is guilty of a misdemeanor;

(b) Who has previously violated an extended order one time is guilty of a gross misdemeanor; or

(c) Who has previously violated an extended order two or more times is guilty of a category D felony and shall be punished as provided in NRS 193.130.

↪ Each act that constitutes a violation of the temporary or extended order may be prosecuted as a separate violation of the order.

**Sec. 4.** NRS 1.130 is hereby amended to read as follows:

1.130 1. No court except a justice court or a municipal court shall be opened nor shall any judicial business be transacted except by a justice court or municipal court on Sunday, or on any day declared to be a legal holiday according to the provisions of NRS 236.015, except for the following purposes:

(a) To give, upon their request, instructions to a jury then deliberating on their verdict.

(b) To receive a verdict or discharge a jury.

(c) For the exercise of the power of a magistrate in a criminal action or in a proceeding of a criminal nature.

(d) To receive communications by telephone and for the issuance of a temporary order pursuant to subsection ~~7~~ 8 of NRS 33.020.

(e) For the issue of a writ of attachment, which may be issued on each and all of the days above enumerated upon the plaintiff, or some person on behalf of the plaintiff, setting forth in the affidavit required by law for obtaining the writ the additional averment as follows:

That the affiant has good reason to believe, and does believe, that it will be too late for the purpose of acquiring a lien by the writ to wait until subsequent day for the issuance of the same.

All proceedings instituted, and all writs issued, and all official acts done on any of the days above specified, under and by virtue of this section, shall have all the validity, force and effect of proceedings commenced on other days, whether a lien be obtained or a levy made under and by virtue of the writ.

2. Nothing herein contained shall affect private transactions of any nature whatsoever.

**Sec. 5.** NRS 125.560 is hereby amended to read as follows:

125.560 I. A

~~[ 1. Unless a more severe penalty is prescribed by law for an act that constitutes a violation of an order, any]~~ person who *intentionally* violates a restraining order or injunction ~~;~~

~~—1. That~~ *that* is in the nature of a temporary or extended order for protection against domestic violence ~~;~~ and ~~;~~

~~—2. That~~ *that* is issued in an action or proceeding brought pursuant to this title ~~;~~

~~is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order or injunction.] shall be punished:~~

(a) *Where the order or injunction is in the nature of a temporary order for protection against domestic violence, for a ~~gross~~ misdemeanor.*

(b) *Where the order or injunction is in the nature of an extended order for protection against domestic violence ~~for a category C felony and shall be punished as provided in NRS 193.130.] and:~~*

(1) The person has not previously violated an extended order for protection against domestic violence, for a misdemeanor;

(2) The person has previously violated an extended order for protection against domestic violence one time, for a gross misdemeanor; or

(3) The person has previously violated an extended order for protection against domestic violence two or more times, for a category D felony and shall be punished as provided in NRS 193.130.

2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

**Sec. 6.** NRS 171.136 is hereby amended to read as follows:

171.136 1. If the offense charged is a felony or gross misdemeanor, the arrest may be made on any day, and at any time of day or night.

2. If it is a misdemeanor, the arrest cannot be made between the hours of 7 p.m. and 7 a.m., except:

(a) Upon the direction of a magistrate, endorsed upon the warrant;

(b) When the offense is committed in the presence of the arresting officer;

(c) When the person is found and the arrest is made in a public place or a place that is open to the public and:

(1) There is a warrant of arrest against the person; and

(2) The misdemeanor is discovered because there was probable cause for the arresting officer to stop, detain or arrest the person for another alleged violation or offense;

(d) When the offense is committed in the presence of a private person and the person makes an arrest immediately after the offense is committed;

(e) When the arrest is made in the manner provided in NRS 171.137;

(f) ~~When the offense charged is a violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive;~~

~~(g) When the person is already in custody as a result of another lawful arrest; or~~

~~(h)~~ (g) When the person voluntarily surrenders himself or herself in response to an outstanding warrant of arrest.

**Sec. 7.** NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsection 2 or 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided pursuant to subsection 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.

3. Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

(a) A battery which constitutes domestic violence pursuant to NRS 33.018 that is punishable as a felony pursuant to paragraph (c) of subsection 1 or subsection 2; ~~or~~

(b) *A battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed with the use of a deadly weapon as described in NRS 200.481; or*

(c) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a) ~~or~~ *(b)*,

↪ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000, but not more than \$5,000.

4. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12

months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

↪ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

5. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

↪ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a), ~~or~~ (b) *or* (c) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

6. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of \$35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

7. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

8. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

9. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill

or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(a) As set forth in NRS 4.373 and 5.055; or

(b) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

10. In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

11. A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

12. As used in this section:

(a) “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

(b) “Battery” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) “Offense” includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 236.

Bill read second time.



The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 810.

AN ACT relating to water; establishing requirements relating to sinking or boring certain wells for water already appropriated; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a person to submit an application for a permit to change the place of diversion of water already appropriated. (NRS 533.325-533.345) **Section 5** of this bill creates an exception from this requirement to allow a person to sink or bore a replacement well without submitting such an application where: (1) both the original site of the well and the site of the replacement well are located on property owned by the same person for whom the water has already been appropriated; and (2) the site of the replacement well is located not more than 300 feet from the original place of diversion described on the permit to appropriate water. **Section 5 requires the person to: (1) record the site of the replacement well with the county recorder; and (2) inform the State Engineer of the site of the replacement well.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 533.325 is hereby amended to read as follows:

533.325 Except as otherwise provided in NRS 533.027 ~~††~~ **and section 5 of this act**, any person who wishes to appropriate any of the public waters, or to change the place of diversion, manner of use or place of use of water already appropriated, shall, before performing any work in connection with such appropriation, change in place of diversion or change in manner or place of use, apply to the State Engineer for a permit to do so.

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. If a person is seeking to sink or bore a replacement well to divert groundwater already appropriated and:**

**(a) The original site of the well and the site of the replacement well are on property owned by the same person for whom the groundwater has already been appropriated; and**

**(b) The site of the replacement well is located not more than 300 feet from the original place of diversion described on the permit to appropriate water, ↪ the person is not required to file an application to change the place of diversion pursuant to NRS 533.345.**

**2. If a change to the site of a replacement well meets the requirements of subsection 1, the site of the replacement well must be located anywhere on the property of the person who holds the permit to appropriate water that**

*is not more than 300 feet from the original place of diversion described on the permit to appropriate water.*

**3. The person who holds the permit to appropriate water must:**

**(a) Record the site of the replacement well in the office of the county recorder of each county in which the water is applied to beneficial use and in each county in which the water is diverted from its natural source; and**

**(b) Inform the State Engineer of the site of the replacement well.**

**↪ Compliance with the provisions of this subsection shall be deemed to impart notice of the site of the replacement well to all persons.**

**Sec. 6.** NRS 534.190 is hereby amended to read as follows:

534.190 Any person violating any of the provisions of NRS 534.010 to 534.180, inclusive, **and section 5 of this act** shall be guilty of a misdemeanor.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 239.

Bill read second time and ordered to third reading.

Senate Bill No. 252.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 777.

AN ACT relating to offenders; authorizing the residential confinement or other appropriate supervision of certain older offenders; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Director of the Department of Corrections to assign any offender who has not been sentenced to death or imprisonment for life without the possibility of parole to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement or other appropriate supervision as determined by the Division for not longer than the remainder of the offender's sentence if: (1) the Director has reason to believe that the offender is physically incapacitated or in ill health to such a degree that the offender is not likely to pose a threat to the safety of the public and at least two licensed physicians verify such incapacitation or ill health; or (2) the offender is in ill health and expected to die within 12 months. If the Director intends to assign such an offender to the custody of the Division, the Director is required to notify the Division and the board of county commissioners of the county in which the offender will reside at least 45 days before the offender's expected date of release. Additionally, the Division is required to notify any victim of a crime committed by the offender who has requested to be notified of the consideration of a prisoner for parole. If such an offender escapes or violates any of the terms or conditions of his or her

residential confinement or other appropriate supervision as determined by the Division, the Division is authorized to return the offender to the custody of the Department and any credits for good behavior earned by the offender before the escape or violation are subject to forfeiture, as determined by the Director. (NRS 209.3925)

**Section 1** of this bill additionally authorizes the Director to assign any offender who has not been sentenced to death or imprisonment for life without the possibility of parole to the custody of the Division to serve a term of residential confinement or other appropriate supervision as determined by the Division for not longer than the remainder of the offender's sentence if the offender: (1) is 65 years of age or older; (2) has not been convicted of a crime of violence, certain offenses committed against a child, a sexual offense, vehicular homicide or driving under the influence of alcohol or a prohibited substance and causing the death of or substantial bodily harm to another person; and (3) has served **8 consecutive years in the custody of the Department of Corrections or** at least a majority of the maximum term or maximum aggregate term of his or her sentence ~~or~~, **whichever occurs earlier.** **Sections 2-8** of this bill make conforming changes.

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

**Section 1.** Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his or her sentence, if the offender:*

*(a) Is 65 years of age or older;*

*(b) Has not been convicted of:*

*(1) A crime of violence;*

*(2) A crime against a child as defined in NRS 179D.0357;*

*(3) A sexual offense as defined in NRS 179D.097;*

*(4) Vehicular homicide pursuant to NRS 484C.130; or*

*(5) A violation of NRS 484C.430; and*

*(c) Has served 8 consecutive years in the custody of the Department, including any credit earned for time served in a county jail as ordered by the court, or at least a majority of the maximum term or maximum aggregate term, as applicable, of his or her sentence or, whichever occurs earlier.*

*2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:*

(a) *The board of county commissioners of the county in which the offender will reside; and*

(b) *The Division of Parole and Probation.*

3. *Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:*

(a) *The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and*

(b) *The victim may submit documents to the Division of Parole and Probation regarding such an assignment.*

↪ *If a current address has not been provided by a victim as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, without limitation, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.*

4. *If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:*

(a) *The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.*

(b) *The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.*

5. *The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:*

(a) *A continuation of the offender's imprisonment and not a release on parole; and*

(b) *For the purposes of NRS 209.341, an assignment to a facility of the Department,*

↪ *except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.*

6. *The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.*

7. *An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in*

*that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.*

*8. The Division of Parole and Probation may receive and distribute restitution paid by an offender assigned to the custody of the Division of Parole and Probation pursuant to this section.*

*9. As used in this section, "crime of violence" means any offense involving the use or threatened use of force or violence against another person.*

**Sec. 2.** NRS 209.241 is hereby amended to read as follows:

209.241 1. The Director may accept money, including the net amount of any wages earned during the incarceration of an offender after any deductions made by the Director and valuables belonging to an offender at the time of his or her incarceration or afterward received by gift, inheritance or the like or earned during the incarceration of an offender, and shall deposit the money in the Prisoners' Personal Property Fund, which is hereby created as a trust fund.

2. An offender shall deposit all money that the offender receives into his or her individual account in the Prisoners' Personal Property Fund.

3. The Director:

(a) Shall keep, or cause to be kept, a full and accurate account of the money and valuables, and shall submit reports to the Board relating to the money and valuables as may be required from time to time.

(b) May permit withdrawals for immediate expenditure by an offender for personal needs.

(c) May permit the distribution of money to a governmental entity for any applicable deduction authorized pursuant to NRS 209.247 or any other deduction authorized by law from any money deposited in the individual account of an offender from any source other than the offender's wages.

(d) Shall pay over to each offender upon his or her release any remaining balance in his or her individual account.

4. The interest and income earned on the money in the Prisoners' Personal Property Fund, after deducting any applicable bank charges, must be credited each calendar quarter as follows:

(a) If an offender's share of the cost of administering the Prisoners' Personal Property Fund for the quarter is less than the amount of interest and income earned by the offender, the Director shall credit the individual account of the offender with an amount equal to the difference between the amount of interest and income earned by the offender and the offender's share of the cost of administering the Prisoners' Personal Property Fund.

(b) If an offender's share of the cost of administering the Prisoners' Personal Property Fund for the quarter is equal to or greater than the amount of interest and income earned by the offender, the Director shall credit the interest and income to the Offenders' Store Fund.

5. An offender who does not deposit all money that the offender receives into his or her individual account in the Prisoners' Personal Property Fund as required in this section is guilty of a gross misdemeanor.

6. A person who aids or encourages an offender not to deposit all money the offender receives into the individual account of the offender in the Prisoners' Personal Property Fund as required in this section is guilty of a gross misdemeanor.

7. The Director may exempt an offender from the provisions of this section if the offender is:

(a) Confined in an institution outside this State pursuant to chapter 215A of NRS; or

(b) Assigned to the custody of the Division of Parole and Probation of the Department of Public Safety to:

(1) Serve a term of residential confinement pursuant to NRS 209.392, 209.3925 or 209.429 ~~†~~ **or section 1 of this act**; or

(2) Participate in a correctional program for reentry into the community pursuant to NRS 209.4887.

**Sec. 3.** NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429 ~~†~~ **and section 1 of this act**, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of the offender's confinement and to meet any existing obligation for restitution to any victim of his or her crime,

↪ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his or her sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that the victim may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which

pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to the offender in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) Except as otherwise provided in subsection 4, a category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.420, 488.425 or 488.427; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

↪ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of the offender's residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

6. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

8. The Division of Parole and Probation may receive and distribute restitution paid by an offender assigned to the custody of the Division of Parole and Probation pursuant to this section.

**Sec. 4.** NRS 213.10915 is hereby amended to read as follows:

213.10915 1. The Board, in consultation with the Division, may enter into an agreement with the manager of an automated victim notification system to notify victims of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 **and section 1 of this act** through the system if the system is capable of:

(a) Automatically notifying by telephone or electronic means a victim registered with the system of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 **and section 1 of this act** with the timeliness required by NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~and section 1 of this act~~; and

(b) Notifying victims registered with the system, using language provided by the Board, if the Board decides that it will discontinue the use of the system to notify victims of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~and section 1 of this act~~. The notice must:

(1) Be provided to each victim registered with the system not less than 90 days before the date on which the Board will discontinue use of the system; and

(2) Advise each victim to submit a written request for notification pursuant to subsection 4 of NRS 213.131 if the victim wishes to receive notice of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~and section 1 of this act~~.

2. The Division is not required to notify the victim of an offender of the information described in NRS 209.392 and 209.3925 **and section 1 of this act** and the Board is not required to notify the victim of a prisoner of the information described in subsections 4 and 7 of NRS 213.131 if:



(a) The Board has entered into an agreement pursuant to subsection 1; and  
(b) Before discontinuing the notification of victims pursuant to NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~††~~ **and section 1 of this act**, the Board, not less than two times and not less than 60 days apart, has notified each victim who has requested notification pursuant to subsection 4 of NRS 213.131 and who has provided his or her current address or whose current address is otherwise known by the Board of the change in the manner in which a victim is notified of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~††~~ **and section 1 of this act**. The notice must:

(1) Advise the victim that the Division will no longer notify the victim of the information described in NRS 209.392 and 209.3925 ~~††~~ **and section 1 of this act**, that the Board will no longer notify the victim of the information described in subsections 4 and 7 of NRS 213.131, and that the victim may register with the automated victim notification system if he or she wishes to be notified of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~††~~ **and section 1 of this act**; and

(2) Include instructions for registering with the automated victim notification system to receive notice of the information described in NRS 209.392 and 209.3925 and subsections 4 and 7 of NRS 213.131 ~~††~~ **and section 1 of this act**.

3. For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

**Sec. 5.** NRS 213.371 is hereby amended to read as follows:

213.371 As used in NRS 213.371 to 213.410, inclusive, unless the context otherwise requires:

1. “Division” means the Division of Parole and Probation of the Department of Public Safety.

2. “Offender” means a prisoner assigned to the custody of the Division pursuant to NRS 209.392, 209.3925 or 209.429 ~~††~~ **or section 1 of this act**.

3. “Residential confinement” means the confinement of an offender to his or her place of residence under the terms and conditions established by the Division.

**Sec. 6.** NRS 213.380 is hereby amended to read as follows:

213.380 1. The Division shall establish procedures for the residential confinement of offenders.

2. The Division may establish, and at any time modify, the terms and conditions of the residential confinement, except that the Division shall:

(a) Require the offender to participate in regular sessions of education, counseling and any other necessary or desirable treatment in the community, unless the offender is assigned to the custody of the Division pursuant to NRS 209.3925 ~~††~~ **or section 1 of this act**;

(b) Require the offender to be confined to his or her residence during the time the offender is not:

(1) Engaged in employment or an activity listed in paragraph (a) that is authorized by the Division;

(2) Receiving medical treatment that is authorized by the Division; or

(3) Engaged in any other activity that is authorized by the Division; and

(c) Require intensive supervision of the offender, including unannounced visits to his or her residence or other locations where the offender is expected to be in order to determine whether the offender is complying with the terms and conditions of his or her confinement.

3. An electronic device approved by the Division may be used to supervise an offender. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the offender's location, including, but not limited to, the transmission of still visual images which do not concern the offender's activities, and producing, upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the offender's activities,

↪ must not be used.

**Sec. 7.** NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the request of a victim or witness, inform the victim or witness:

(a) When the defendant is released from custody at any time before or during the trial, including, without limitation, when the defendant is released pending trial or subject to electronic supervision;

(b) If the defendant is so released, the amount of bail required, if any; and

(c) Of the final disposition of the criminal case in which the victim or witness was directly involved.

2. A request for information pursuant to subsection 1 must be made:

(a) In writing; or

(b) By telephone through an automated or computerized system of notification, if such a system is available.

3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

(a) To each witness, documentation that includes:

(1) A form advising the witness of the right to be notified pursuant to subsection 5;

(2) The form that the witness must use to request notification in writing; and

(3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.

(b) To each person listed in subsection 4, documentation that includes:

(1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.131 **and section 1 of this act** or NRS 213.10915;

(2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides a current address, notify the victim or witness at that address when the offender is released from the prison.

6. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;

(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides a current address; and

(c) The victim, if the victim will be 18 years of age or older at the time of the release and has provided a current address,

↳ before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by the failure to give any notice required pursuant to this section if no address was provided to the warden or if the address provided is inaccurate or not current.

8. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

- (3) Battery with intent to commit sexual assault pursuant to NRS 200.400;
- (4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
- (5) Incest pursuant to NRS 201.180;
- (6) Open or gross lewdness pursuant to NRS 201.210;
- (7) Indecent or obscene exposure pursuant to NRS 201.220;
- (8) Lewdness with a child pursuant to NRS 201.230;
- (9) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (10) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;
- (11) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;
- (12) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;
- (13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or
- (14) An attempt to commit an offense listed in this paragraph.

**Sec. 8.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,

360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 1 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies,

abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 9.** This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 253.

Bill read second time and ordered to third reading.

Senate Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 734.

AN ACT relating to applied behavior analysis; abolishing certification as a state certified behavior interventionist; transferring certain responsibilities concerning licensing and regulation from the Aging and Disability Services Division of the Department of Health and Human Services to the Board of Applied Behavior Analysis; authorizing the Board to delegate certain such responsibilities to the Division; requiring the Division to obtain the approval of the Board to conduct an investigation and perform certain related tasks;

**revising provisions exempting certain persons from licensure or registration to practice applied behavior analysis;** requiring continuing education for behavior analysts and assistant behavior analysts to meet nationally recognized standards; revising provisions relating to criminal background checks or applicants for registration as a registered behavior technician; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the certification of state certified behavior interventionists and the registration of registered behavior technicians by the Aging and Disability Services Division of the Department of Health and Human Services. To be registered as a registered behavior technician by the Division, a person is required to be registered as a Registered Behavior Technician, or have an equivalent credential, by the Behavior Analyst Certification Board, Inc., or its successor organization. A person who wishes to be certified as a state certified behavior interventionist is required to meet the qualifications prescribed by the Board of Applied Behavior Analysis, which must be no less stringent than the requirements for registration as a Registered Behavior Technician, or an equivalent credential, by the Behavior Analyst Certification Board, Inc., or its successor organization. (NRS 437.205) Under existing law, both a registered behavior technician and a state certified behavior interventionist are authorized to provide behavioral therapy under the supervision of a licensed psychologist, behavior analyst or assistant behavior analyst. (NRS 437.050, 437.055, 437.505) **Sections 1, 4-7, 9-14, 16-20, 23-29, 31, 33-46, 48-53 and 56** of this bill remove certification as a state certified behavior interventionist.

Existing law authorizes the Board of Applied Behavior Analysis to adopt regulations governing its procedure, the examination and licensure, certification or registration of applicants, the granting, refusal, revocation or suspension of licenses, certificates or registrations and the practice of applied behavior analysis. (NRS 437.110) Existing law authorizes the Division to: (1) issue, renew, suspend, revoke and reinstate licenses and registrations; (2) impose disciplinary action against licensees and registrants; (3) adopt regulations prescribing fees for the issuance, renewal or reinstatement of a license or registration; (4) conduct investigations of licensees and registrants; and (5) perform certain related tasks to enforce provisions of law applicable to behavior analysts, assistant behavior analysts and registered behavior technicians. (NRS 437.130-437.140, 437.200-437.490) **Sections 14, 16-23, 25, 26, 28, 29, 34, 36, 38 and 42** of this bill transfer the responsibilities to issue, renew, suspend, revoke and reinstate licenses, impose disciplinary action against licensees and registrants and prescribe fees to the Board, while still requiring the Division to collect applications, conduct investigations, disburse money and hold disciplinary hearings. **Section 14** of this bill authorizes the Board to delegate those responsibilities to the Division except for making the final determination concerning the suspension or revocation of a license or the imposition of other disciplinary action. **Sections 2, 3 and 8** of

this bill make conforming changes. **Sections 14, 15, 30, 32, 33, 35, 39 and 40** of this bill require the Division to obtain the approval of the Board before conducting investigations or performing certain related tasks. **Section 31** of this bill requires the Board to file a complaint with the Division if it becomes aware that grounds for disciplinary action may exist as to a person practicing applied behavior analysis.

**Existing law provides that persons who provide certain services that could otherwise constitute applied behavior analysis are exempt from requirements to be licensed or registered to practice applied behavior analysis if they do not provide applied behavior analysis services directly to natural persons. (NRS 437.065) Section 10 of this bill provides that such persons are exempt from those licensure or registration requirements if they do not otherwise separately provide applied behavior analysis services directly to natural persons.**

Existing law requires a behavior analyst or assistant behavior analyst to complete continuing education prescribed by the Board. (NRS 437.225) **Section 23** of this bill requires the continuing education prescribed by the Board to be consistent with nationally recognized standards for such continuing education.

Existing law requires each person desiring a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician to undergo a criminal background check. (NRS 437.200) **Section 18** of this bill authorizes an applicant for registration as a registered behavior technician to forego the required background check if he or she submits certain verification that he or she has, within the immediately preceding 6 months, passed a criminal background check for the purpose of certification by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

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

**Section 1.** NRS 437.001 is hereby amended to read as follows:

437.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 437.005 to ~~437.055,~~ **437.050**, inclusive, have the meanings ascribed to them in those sections.

**Sec. 2.** NRS 437.005 is hereby amended to read as follows:

437.005 “Assistant behavior analyst” means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and is licensed as an assistant behavior analyst ~~by the Division,~~ **pursuant to this chapter.**

**Sec. 3.** NRS 437.010 is hereby amended to read as follows:

437.010 “Behavior analyst” means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that



organization, and is licensed as a behavior analyst ~~by the Division.~~ *pursuant to this chapter.*

**Sec. 4.** NRS 437.020 is hereby amended to read as follows:

437.020 “Community” means the entire area customarily served by behavior analysts and assistant behavior analysts among whom a patient may reasonably choose, not merely the particular area inhabited by the patients of an individual behavior analyst, assistant behavior analyst ~~[-state-certified behavior interventionist]~~ or registered behavior technician or the particular city or place where the behavior analyst, assistant behavior analyst ~~[-state-certified behavior interventionist]~~ or registered behavior technician has his or her office.

**Sec. 5.** NRS 437.030 is hereby amended to read as follows:

437.030 “Gross malpractice” means malpractice where the failure to exercise the requisite degree of care, diligence or skill consists of:

1. Practicing applied behavior analysis with a patient while the behavior analyst, assistant behavior analyst ~~[-state-certified behavior interventionist]~~ or registered behavior technician is under the influence of an alcoholic beverage as defined in NRS 202.015 or any controlled substance;

2. Gross negligence;

3. Willful disregard of established methods and procedures in the practice of applied behavior analysis; or

4. Willful and consistent use of methods and procedures considered by behavior analysts, assistant behavior analysts ~~[-state-certified behavior interventionists]~~ or registered behavior technicians, as applicable, in the community to be inappropriate or unnecessary in the cases where used.

**Sec. 6.** NRS 437.035 is hereby amended to read as follows:

437.035 “Malpractice” means failure on the part of a behavior analyst, assistant behavior analyst ~~[-state-certified behavior interventionist]~~ or registered behavior technician to exercise the degree of care, diligence and skill ordinarily exercised by behavior analysts, assistant behavior analysts ~~[-state-certified behavior interventionists]~~ or registered behavior technicians, as applicable, in good standing in the community.

**Sec. 7.** NRS 437.040 is hereby amended to read as follows:

437.040 “Practice of applied behavior analysis” means the design, implementation and evaluation of instructional and environmental modifications based on scientific research and observations of behavior and the environment to produce socially significant improvement in human behavior, including, without limitation:

1. The empirical identification of functional relations between environment and behavior; and

2. The use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement and other procedures to help a person develop new behaviors, increase or decrease existing behaviors and engage in certain behavior under specific environmental conditions.

↪ The term includes the provision of behavioral therapy by a behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician.

**Sec. 8.** NRS 437.050 is hereby amended to read as follows:

437.050 “Registered behavior technician” means a person who ~~[-is]~~ :

1. ***Is certified as a registered behavior technician by the Behavior Analyst Certification Board, Inc., or its successor organization;***

2. ***Is registered as such ~~[-by the Division]~~ pursuant to this chapter; and ~~[-provides]~~***

3. ***Provides*** behavioral therapy under the supervision of:

~~[-]~~ (a) A licensed psychologist;

~~[-]~~ (b) A licensed behavior analyst; or

~~[-]~~ (c) A licensed assistant behavior analyst.

**Sec. 9.** NRS 437.060 is hereby amended to read as follows:

437.060 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A person who is licensed to practice dentistry in this State;

3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;

5. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;

6. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;

7. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

8. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a clinical alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;

9. Any member of the clergy;

10. A family member of a recipient of applied behavior analysis services who performs activities as directed by a behavior analyst or assistant behavior analyst; or

11. A person who provides applied behavior analysis services to a pupil in a public school in a manner consistent with the training and experience of the person,

↪ if such a person does not commit an act described in NRS 437.510 or represent himself or herself as a behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician.

**Sec. 10.** NRS 437.065 is hereby amended to read as follows:

437.065 1. A person is not required to be licensed ~~[-certified]~~ or registered ~~[-by the Division]~~ ***pursuant to this chapter*** if he or she:

(a) Provides behavior modification services or training exclusively to animals and not to natural persons;

(b) Provides generalized applied behavior analysis services to an organization but does not otherwise separately provide such services directly to natural persons;

(c) Teaches applied behavior analysis or conducts research concerning applied behavior analysis but does not otherwise separately provide applied behavior analysis services directly to natural persons;

(d) Provides academic services, including, without limitation, tutoring, instructional design, curriculum production, assessment research and design, or test preparation but does not otherwise separately provide applied behavior analysis services directly to natural persons; or

(e) Conducts academic research relating to applied behavior analysis as a primary job responsibility but does not otherwise separately provide applied behavior analysis services directly to natural persons.

2. A person described in subsection 1:

(a) May refer to himself or herself as a behavior analyst; and

(b) Shall not represent or imply that he or she is licensed ~~†, certified†~~ or registered ~~†by the Division.†~~ ***pursuant to this chapter.***

**Sec. 11.** NRS 437.070 is hereby amended to read as follows:

437.070 1. A person who has matriculated at an accredited college or university and is not licensed ~~†, certified†~~ or registered ~~†by the Division.†~~ ***pursuant to this chapter*** may practice applied behavior analysis under the direct supervision of a licensed behavior analyst as part of:

(a) A program in applied behavior analysis offered by the college or university in which he or she is enrolled; or

(b) An internship or fellowship.

2. A person described in subsection 1:

(a) Shall clearly identify himself or herself to any person to whom he or she provides applied behavior analysis services as a student, intern, trainee or fellow; and

(b) Shall not identify himself or herself as a behavior analyst, assistant behavior analyst ~~†, state certified behavior interventionist†~~ or registered behavior technician, or represent or imply that he or she is licensed ~~†, certified†~~ or registered ~~†by the Division.†~~ ***pursuant to this chapter.***

**Sec. 12.** NRS 437.075 is hereby amended to read as follows:

437.075 1. A licensed behavior analyst or assistant behavior analyst ~~†, state certified behavior interventionist†~~ or registered behavior technician shall limit his or her practice of applied behavior analysis to his or her areas of competence, as documented by education, training and experience.

2. The Board shall adopt regulations to ensure that licensed behavior analysts and assistant behavior analysts ~~†, state certified behavior interventionists†~~ and registered behavior technicians limit their practice of applied behavior analysis to their areas of competence.

**Sec. 13.** NRS 437.110 is hereby amended to read as follows:

437.110 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensure ~~[-certification]~~ or registration of applicants, the granting, refusal, revocation or suspension of licenses ~~[-certificates]~~ or registrations and the practice of applied behavior analysis.

**Sec. 14.** NRS 437.130 is hereby amended to read as follows:

437.130 **1.** ~~[-The Division]~~ **Except as otherwise provided in subsection 2, the Board** shall enforce the provisions of this chapter and may, under the provisions of this chapter:

~~[-1.]~~ **(a)** Examine and pass upon the qualifications of applicants for licensure ~~[-certification]~~ and registration.

~~[-2.]~~ **(b)** License ~~[-certify]~~ and register qualified applicants.

~~[-3.]~~ Conduct investigations of licensees, certificate holders and registrants.

~~[-4.]~~ **(c)** Revoke or suspend licenses ~~[-certificates]~~ and registrations.

~~[-5.]~~ Collect all fees and make disbursements pursuant to this chapter.

**2. Except as otherwise provided in this subsection, the Board may delegate to the Division, in whole or in part, any duty prescribed by subsection 1. The Board must make the final determination concerning the suspension or revocation of a license or registration or the imposition of any other disciplinary action.**

**3. The Division shall:**

**(a) Collect applications and fees and make disbursements pursuant to this chapter;**

**(b) With the approval of the Board, conduct investigations of licensees and registrants; and**

**(c) Perform any duty delegated by the Board pursuant to subsection 2.**

**Sec. 15.** NRS 437.135 is hereby amended to read as follows:

437.135 In a manner consistent with the provisions of chapter 622A of NRS ~~[-]~~ **and with the approval of the Board**, the Division may hold hearings and conduct investigations related to its duties under this chapter and take evidence on any matter under inquiry before it.

**Sec. 16.** NRS 437.140 is hereby amended to read as follows:

437.140 **1.** The ~~[-Division]~~ **Board** shall prescribe, by regulation, fees for the issuance, renewal and reinstatement of a license ~~[-certificate]~~ or registration and any other services provided by the Division pursuant to this chapter. The ~~[-Division]~~ **Board** shall ensure, to the extent practicable, that the amount of such fees is sufficient to pay the costs incurred by the Board and the Division under the provisions of this chapter, including, without limitation, the compensation of the Board prescribed by NRS 437.105, and does not exceed the amount necessary to pay those costs.

**2.** Money received from the licensure of behavior analysts and assistant behavior analysts ~~[-certification of state-certified behavior interventionists]~~ and registration of registered behavior technicians, civil penalties collected pursuant to this chapter and any appropriation, gift, grant or donation received

by the Board or the Division for purposes relating to the duties of the Board or the Division under the provisions of this chapter must be deposited in a separate account in the State General Fund. The account must be administered by the Division. Money in the account must be expended solely for the purposes of this chapter and does not revert to the State General Fund. The compensation provided for by this chapter and all expenses incurred under this chapter must be paid from the money in the account.

**Sec. 17.** NRS 437.145 is hereby amended to read as follows:

437.145 1. The Division shall make and keep:

(a) A record of all violations and prosecutions under the provisions of this chapter.

(b) A register of all licenses ~~[- certificates]~~ and registrations.

(c) A register of all holders of licenses ~~[- certificates]~~ and registrations.

2. These records must be kept in an office of the Division and, except as otherwise provided in this section, are subject to public inspection during normal working hours upon reasonable notice.

3. Except as otherwise provided in NRS 239.0115, the Division may keep the personnel records of applicants confidential.

4. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Division requesting that such documents and information be made public records.

5. The charging documents filed with the Division to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Division *and the Board* when determining whether to impose discipline are public records.

6. The provisions of this section do not prohibit the Division *or the Board* from communicating or cooperating with or providing any documents or other information to any licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

**Sec. 18.** NRS 437.200 is hereby amended to read as follows:

437.200 1. Each person desiring a license as a behavior analyst or assistant behavior analyst ~~[- certification as a state certified behavior interventionist]~~ or registration as a registered behavior technician must:

(a) Make application to the Division upon a form and in a manner prescribed by the Division. The application must be accompanied by the application fee prescribed by the ~~[Division]~~ **Board pursuant to NRS 437.140** and include all information required to complete the application.

(b) ~~[As]~~ **Except as otherwise provided in subsection 3, as** part of the application and at his or her own expense:

(1) Arrange to have a complete set of fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(2) Submit to the Division:

(I) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Division deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Division, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Division deems necessary for a report on the applicant's background.

2. The Division may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each agency to which the Division submits the fingerprints any information regarding the applicant's background as the Division deems necessary.

3. *An applicant for registration as a registered behavior technician is not required to comply with paragraph (b) of subsection 1 if he or she submits to the Division verification from a supervising psychologist, behavior analyst or assistant behavior analyst that:*

*(a) Within 6 months immediately preceding the date on which the application was submitted, the Behavior Analyst Certification Board, Inc., or its successor organization, determined the applicant to be eligible for registration as a registered behavior technician; and*

*(b) It is the policy of the Behavior Analyst Certification Board, Inc., or its successor organization, to conduct an investigation into the criminal background of an applicant for registration as a registered behavior technician or an equivalent credential that includes the submission of fingerprints to the Federal Bureau of Investigation.*

4. An application is not considered complete and received for purposes of evaluation pursuant to subsection ~~1~~ 4 of NRS 437.205 until the Division receives ~~it~~:

(a) A complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for

Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section ~~{}~~; *or*

*(b) If the application is for registration as a registered behavior technician, the documentation described in subsection 3.*

**Sec. 19.** NRS 437.205 is hereby amended to read as follows:

437.205 1. Except as otherwise provided in NRS 437.215 and 437.220, each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the ~~{Division}~~ **Board** that the applicant:

(a) Is of good moral character as determined by the ~~{Division}~~ **Board**.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

2. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the ~~{Division}~~ **Board** that the applicant:

(a) Is of good moral character as determined by the ~~{Division}~~ **Board**.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

~~3. Each application for certification as a state certified behavior interventionist must contain proof that the applicant meets the qualifications prescribed by regulation of the Board, which must be no less stringent than the requirements for registration as a Registered Behavior Technician, or an equivalent credential, by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.~~

~~4.~~ Each application for registration as a registered behavior technician must contain proof that the applicant is registered as a Registered Behavior Technician, or an equivalent credential, by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization. The Board shall not require any additional education or training for registration as a registered behavior technician.

~~5.~~ **4.** Except as otherwise provided in NRS 437.215 and 437.220, within 120 days after ~~receiving~~ *the Division receives* an application and the accompanying evidence ~~from an applicant, the Division~~, *the Board* shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ~~certification~~ or registration; and

(b) Issue a written statement to the applicant of its determination.

~~6.~~ **5.** If the ~~{Division}~~ **Board** determines that the qualifications of the applicant are insufficient for licensure ~~certification~~ or registration, the

written statement issued to the applicant pursuant to subsection ~~{S} 4~~ must include a detailed explanation of the reasons for that determination.

**Sec. 20.** NRS 437.210 is hereby amended to read as follows:

437.210 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license as a behavior analyst or assistant behavior analyst ~~[- certificate as a state certified behavior interventionist]~~ or registration as a registered behavior technician shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a license as a behavior analyst or assistant behavior analyst ~~[- certificate as a state certified behavior interventionist]~~ or registration as a registered behavior technician shall submit to the Aging and Disability Services Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Aging and Disability Services Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license ~~[- certificate]~~ or registration; or

(b) A separate form prescribed by the Division.

3. A license as a behavior analyst or assistant behavior analyst ~~[- certificate as a state certified behavior interventionist]~~ or registration as a registered behavior technician must not be issued or renewed by the ~~[- Aging and Disability Services Division]~~ **Board** if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Aging and Disability Services Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 21.** NRS 437.215 is hereby amended to read as follows:

437.215 1. The ~~[- Division]~~ **Board** may issue a license by endorsement as a behavior analyst to an applicant who meets the requirements set forth in this section. An applicant may submit to the Division an application for such a license if the applicant holds a corresponding valid and unrestricted license as



a behavior analyst in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Division with his or her application:

(a) Proof satisfactory to the ~~Division~~ **Board** that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license as a behavior analyst; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;

(b) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints in the manner provided in NRS 437.200;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fee prescribed by the ~~Division~~ **Board** pursuant to the regulations adopted pursuant to NRS 437.140; and

(e) Any other information required by the Division.

3. Not later than 15 business days after ~~receiving~~ *the Division receives* an application for a license by endorsement as a behavior analyst pursuant to this section, the ~~Division~~ **Board** shall provide written notice to the applicant of any additional information required by the ~~Division~~ **Board** to consider the application. Unless the ~~Division~~ **Board** denies the application for good cause, the ~~Division~~ **Board** shall approve the application and issue a license by endorsement as a behavior analyst to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Division receives a report on the applicant's background based on the submission of the applicant's fingerprints,

↪ whichever occurs later.

**Sec. 22.** NRS 437.220 is hereby amended to read as follows:

437.220 1. The ~~Division~~ **Board** may issue a license by endorsement as a behavior analyst to an applicant who meets the requirements set forth in this section. An applicant may submit to the Division an application for such a license if the applicant:

(a) Holds a corresponding valid and unrestricted license as a behavior analyst in the District of Columbia or any state or territory of the United States; and

(b) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the spouse, widow or widower of a veteran.

2. An applicant for a license by endorsement pursuant to this section must submit to the Division with his or her application:

(a) Proof satisfactory to the ~~Division~~ **Board** that the applicant:

- (1) Satisfies the requirements of subsection 1;
  - (2) Is a citizen of the United States or otherwise has the legal right to work in the United States;
  - (3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a behavior analyst; and
  - (4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States;
- (b) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints in the manner provided in NRS 437.200;
- (c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;
- (d) The fee prescribed by the ~~Division~~ **Board** pursuant to the regulations adopted pursuant to NRS 437.140; and
- (e) Any other information required by the Division.

3. Not later than 15 business days after ~~receiving~~ *the Division receives* an application for a license by endorsement as a behavior analyst pursuant to this section, the ~~Division~~ **Board** shall provide written notice to the applicant of any additional information required by the ~~Division~~ **Board** to consider the application. Unless the ~~Division~~ **Board** denies the application for good cause, the ~~Division~~ **Board** shall approve the application and issue a license by endorsement as a behavior analyst to the applicant not later than:

- (a) Forty-five days after receiving all the additional information required by the ~~Division~~ **Board** to complete the application; or
- (b) Ten days after the Division receives a report on the applicant's background based on the submission of the applicant's fingerprints,  
↪ whichever occurs later.

4. At any time before making a final decision on an application for a license by endorsement pursuant to this section, the ~~Division~~ **Board** may grant a provisional license authorizing an applicant to practice as a behavior analyst in accordance with regulations adopted by the Board.

5. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.

**Sec. 23.** NRS 437.225 is hereby amended to read as follows:

437.225 1. To renew a license as a behavior analyst or assistant behavior analyst ~~[- certificate as a state certified behavior interventionist]~~ or registration as a registered behavior technician, each person must, on or before the first day of January of each odd-numbered year:

- (a) Apply to the Division for renewal;
- (b) Pay the biennial fee for the renewal of a license ~~[- certificate]~~ or registration;
- (c) Submit evidence to the Division ~~[-of]~~ :

(1) *Of* completion of the requirements for continuing education as set forth in regulations adopted by the ~~Division~~ **Board**, if applicable; and

**(2) That the person's certification or registration, as applicable, by the Behavior Analyst Certification Board, Inc., or its successor organization, remains valid and the holder remains in good standing; and**

(d) Submit all information required to complete the renewal.

2. In addition to the requirements of subsection 1, to renew ~~the certificate as a state certified behavior interventionist or~~ registration as a registered behavior technician for the third time and every third renewal thereafter, a person must submit to an investigation of his or her criminal history in the manner prescribed in paragraph (b) of subsection 1 of NRS 437.200.

3. The ~~Division~~ **Board** shall ~~it~~ **adopt regulations that require**, as a prerequisite for the renewal of a license as a behavior analyst or assistant behavior analyst, ~~require~~ each holder to ~~comply with the requirements for~~ **complete** continuing education, ~~adopted by the Board,~~ which must ~~include~~:

**(a) Be consistent with nationally recognized standards for the continuing education of behavior analysts or assistant behavior analysts, as applicable; and**

**(b) Include**, without limitation, a requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.

4. ~~The Board may adopt regulations requiring each state certified behavior interventionist to receive continuing education as a prerequisite for the renewal of his or her certificate.~~

~~5.~~ The Board shall not adopt regulations requiring a registered behavior technician to receive continuing education.

**Sec. 24.** NRS 437.330 is hereby amended to read as follows:

437.330 1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a license as a behavior analyst or assistant behavior analyst ~~the certificate as a state certified behavior interventionist~~ or registration as a registered behavior technician must indicate in the application submitted to the Division whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.

2. A license as a behavior analyst or assistant behavior analyst ~~the certificate as a state certified behavior interventionist~~ or registration as a registered behavior technician may not be renewed if:

(a) The applicant fails to submit the information required by subsection 1; or

(b) The State Controller has informed the Division pursuant to subsection 5 of NRS 353C.1965 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:

(1) Satisfied the debt;

(2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or

(3) Demonstrated that the debt is not valid.

3. As used in this section:

(a) “Agency” has the meaning ascribed to it in NRS 353C.020.

(b) “Debt” has the meaning ascribed to it in NRS 353C.040.

**Sec. 25.** NRS 437.335 is hereby amended to read as follows:

437.335 1. The license of any behavior analyst or assistant behavior analyst ~~or the certificate of a state certified behavior interventionist~~ or the registration of a registered behavior technician who fails to pay the biennial fee for the renewal of a license ~~or certificate~~ or registration within 60 days after the date it is due is automatically suspended. The ~~Division~~ **Board** may, within 2 years after the date the license ~~or certificate~~ or registration is so suspended, reinstate the license ~~or certificate~~ or registration upon payment to the Division of the amount of the then current biennial fee for the renewal of a license ~~or certificate~~ or registration and the amount of the fee for the restoration of a license ~~or certificate~~ or registration so suspended. If the license ~~or certificate~~ or registration is not reinstated within 2 years, the ~~Division~~ **Board** may reinstate the license ~~or certificate~~ or registration only if it also determines that the holder of the license ~~or certificate~~ or registration is competent to practice as a behavior analyst, assistant behavior analyst ~~or state certified behavior interventionist~~ or registered behavior technician, as applicable.

2. A notice must be sent to any person who fails to pay the biennial fee, informing the person that his or her license ~~or certificate~~ or registration is suspended.

**Sec. 26.** NRS 437.400 is hereby amended to read as follows:

437.400 1. The ~~Division~~ **Board** may suspend or revoke a person’s license as a behavior analyst or assistant behavior analyst ~~or certificate as a state certified behavior interventionist~~ or registration as a registered behavior technician, place the person on probation, require remediation for the person or take any other action specified by regulation if the Division finds by a preponderance of the evidence that the person has:

(a) Been convicted of a felony relating to the practice of applied behavior analysis.

(b) Been convicted of any crime or offense that reflects the inability of the person to practice applied behavior analysis with due regard for the health and safety of others.

(c) Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of applied behavior analysis.

(e) Except as otherwise provided in NRS 437.060 and 437.070, aided or abetted practice as a behavior analyst, assistant behavior analyst ~~or state certified behavior interventionist~~ or registered behavior technician by a person who is not licensed ~~or certified~~ or registered, as applicable, ~~by the Division~~ *pursuant to this chapter.*

(f) Made any fraudulent or untrue statement to the Division ~~or~~ **or the Board.**

(g) Violated a regulation adopted by the Board.

(h) Had a license, certificate or registration to practice applied behavior analysis suspended or revoked or has had any other disciplinary action taken against the person by another state or territory of the United States, the District of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

(i) Failed to report to the Division within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license, certificate or registration to practice applied behavior analysis issued to the person by another state or territory of the United States, the District of Columbia or a foreign country.

(j) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

(k) Performed or attempted to perform any professional service while impaired by alcohol or drugs or by a mental or physical illness, disorder or disease.

(l) Engaged in sexual activity with a patient or client.

(m) Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

(n) Been convicted of submitting a false claim for payment to the insurer of a patient or client.

(o) Operated a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. As used in this section, “preponderance of the evidence” has the meaning ascribed to it in NRS 233B.0375.

**Sec. 27.** NRS 437.405 is hereby amended to read as follows:

437.405 The Board shall adopt regulations that establish grounds for disciplinary action for a licensed behavior analyst, licensed assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician in addition to those prescribed by NRS 437.400.

**Sec. 28.** NRS 437.410 is hereby amended to read as follows:

437.410 1. If the Division or a hearing officer appointed by the Division finds a person guilty in a disciplinary proceeding, the Division **shall transmit notice of that finding to the Board. Upon receiving such notice, the Board** may:

(a) Administer a public reprimand.

(b) Limit the person’s practice.

(c) Suspend the person’s license ~~[-certificate]~~ or registration for a period of not more than 1 year.

- (d) Revoke the person's license ~~[-certificate]~~ or registration.
- (e) Impose a fine of not more than \$5,000.
- (f) Revoke or suspend the person's license ~~[-certificate]~~ or registration and impose a monetary penalty.
- (g) Suspend the enforcement of any penalty by placing the person on probation. The ~~Division~~ **Board** may revoke the probation if the person does not follow any conditions imposed.
- (h) Require the person to submit to the supervision of or counseling or treatment by a person designated by the ~~Division~~ **Board**. The person named in the complaint is responsible for any expense incurred.
- (i) Impose and modify any conditions of probation for the protection of the public or the rehabilitation of the probationer.

(j) Require the person to pay for the costs of remediation or restitution.

2. The ~~Division~~ **Board** shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 29.** NRS 437.415 is hereby amended to read as follows:

437.415 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses ~~[-certificates]~~ and permits issued to a person who is the holder of a license ~~[-certificate]~~ or registration issued pursuant to this chapter, the Division **shall transmit the copy to the Board**. **The Board** shall deem the license ~~[-certificate]~~ or registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives **and transmits to the Board** a letter issued to the holder of the license ~~[-certificate]~~ or registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license ~~[-certificate]~~ or registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The ~~Division~~ **Board** shall reinstate a license ~~[-certificate]~~ or registration issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Division receives **and transmits to the Board** a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license ~~[-certificate]~~ or registration was suspended stating that the person whose license ~~[-certificate]~~ or registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 30.** NRS 437.425 is hereby amended to read as follows:

437.425 1. The Division or a hearing officer may, **with the approval of the Board**, issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, the records of patients and any other article related to the practice of applied behavior analysis.

2. If any witness refuses to attend or testify or produce any article as required by the subpoena, the Division may, **with the approval of the Board**, file a petition with the district court stating that:

(a) Due notice has been given for the time and place of attendance of the witness or the production of the required articles;

(b) The witness has been subpoenaed pursuant to this section; and

(c) The witness has failed or refused to attend or produce the articles required by the subpoena or has refused to answer questions propounded to him or her,

➔ and asking for an order of the court compelling the witness to attend and testify before the Division or a hearing officer, or produce the articles as required by the subpoena.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended or testified or produced the articles. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued, the court shall enter an order that the witness appear before the Division or a hearing officer at the time and place fixed in the order and testify or produce the required articles, and upon failure to obey the order the witness must be dealt with as for contempt of court.

**Sec. 31.** NRS 437.430 is hereby amended to read as follows:

437.430 1. The Division, ***the Board or*** any review panel of a hospital or an association of behavior analysts, assistant behavior analysts ~~[-, state-certified behavior interventionists]~~ or registered behavior technicians which becomes aware that any one or a combination of the grounds for initiating disciplinary action may exist as to a person practicing applied behavior analysis in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Division.

2. The Division shall retain all complaints filed with the Division pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

**Sec. 32.** NRS 437.435 is hereby amended to read as follows:

437.435 When a complaint is filed with the Division, it shall review the complaint. If, from the complaint or from other official records, it appears that the complaint is not frivolous, the Division may ~~[-]~~, ***with the approval of the Board:***

1. Retain the Attorney General to investigate the complaint; and

2. If the Division retains the Attorney General, transmit the original complaint, along with further facts or information derived from the review, to the Attorney General.

**Sec. 33.** NRS 437.440 is hereby amended to read as follows:

437.440 1. The Division shall ***request the approval of the Board to*** conduct an investigation of each complaint filed pursuant to NRS 437.430 which sets forth reason to believe that a person has violated NRS 437.500. ***Upon the approval of the Board, the Division shall conduct such an investigation.***

2. If, after an investigation, the Division determines that a person has violated NRS 437.500, the Division:

(a) May ~~issue~~, **with the approval of the Board:**

(1) **Issue** and serve on the person an order to cease and desist from engaging in any activity prohibited by NRS 437.500 until the person obtains the proper license ~~certificate~~ or registration ~~from the Division;~~

~~(b) May issue~~; and

(2) **Issue** a citation to the person; and

~~(c)~~ (b) Shall **request the approval of the Board to** provide a written summary of the Division's determination and any information relating to the violation to the Attorney General. **Upon the approval of the Board, the Division shall provide such a summary to the Attorney General.**

3. A citation issued pursuant to subsection 2 must be in writing and describe with particularity the nature of the violation. The citation also must inform the person of the provisions of subsection 5. Each violation of NRS 437.500 constitutes a separate offense for which a separate citation may be issued.

4. For any person who violates the provisions of NRS 437.500, the Division shall assess an administrative fine of:

(a) For a first violation, \$500.

(b) For a second violation, \$1,000.

(c) For a third or subsequent violation, \$1,500.

5. To appeal a citation issued pursuant to subsection 2, a person must submit a written request for a hearing to the Division within 30 days after the date of issuance of the citation.

**Sec. 34.** NRS 437.445 is hereby amended to read as follows:

437.445 1. If the Division retains the Attorney General pursuant to NRS 437.435, the Attorney General shall conduct an investigation of a complaint transmitted to the Attorney General to determine whether it warrants proceedings for the modification, suspension or revocation of the license ~~certificate~~ or registration. If the Attorney General determines that further proceedings are warranted, he or she shall report the results of the investigation together with a recommendation to the Division in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint.

2. The Division shall promptly make a determination with respect to each complaint reported to it by the Attorney General ~~and~~ **and submit that determination to the Board.** The ~~Division~~ **Board** shall:

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.

**Sec. 35.** NRS 437.450 is hereby amended to read as follows:

437.450 Notwithstanding the provisions of chapter 622A of NRS, if the Division has reason to believe that the conduct of any behavior analyst, assistant behavior analyst ~~state certified behavior interventionist~~ or registered behavior technician has raised a reasonable question as to



competence to practice applied behavior analysis with reasonable skill and safety to patients, the Division may, **with the approval of the Board**, require the behavior analyst, assistant behavior analyst ~~[-state-certified-behavior-interventionist]~~ or registered behavior technician to take a written or oral examination to determine whether the behavior analyst, assistant behavior analyst ~~[-state-certified-behavior-interventionist]~~ or registered behavior technician is competent to practice applied behavior analysis. If an examination is required, the reasons therefor must be documented and made available to the behavior analyst, assistant behavior analyst ~~[-state-certified-behavior-interventionist]~~ or registered behavior technician being examined.

**Sec. 36.** NRS 437.455 is hereby amended to read as follows:

437.455 Notwithstanding the provisions of chapter 622A of NRS, if the ~~[-Division-or-a-hearing-officer]~~ **Board** issues an order suspending the license of a behavior analyst or assistant behavior analyst ~~[-certificate-of-a-state-certified-behavior-interventionist]~~ or registration of a registered behavior technician pending proceedings for disciplinary action and requires the behavior analyst, assistant behavior analyst ~~[-state-certified-behavior-interventionist]~~ or registered behavior technician to submit to an examination of his or her competency to practice applied behavior analysis, the examination must be conducted and the results obtained within 60 days after the ~~[-Division-or-hearing-officer]~~ **Board** issues the order.

**Sec. 37.** NRS 437.465 is hereby amended to read as follows:

437.465 Notwithstanding the provisions of chapter 622A of NRS, in any disciplinary proceeding before the Division or a hearing officer conducted under the provisions of this chapter:

1. Proof of actual injury need not be established where the complaint charges deceptive or unethical professional conduct or practice of applied behavior analysis harmful to the public.

2. A certified copy of the record of a court or a licensing agency showing a conviction or the suspension or revocation of a license as a behavior analyst or assistant behavior analyst ~~[-certificate-as-a-state-certified-behavior-interventionist]~~ or registration as a registered behavior technician is conclusive evidence of its occurrence.

3. The entering of a plea of nolo contendere in a court of competent jurisdiction shall be deemed a conviction of the offense charged.

**Sec. 38.** NRS 437.470 is hereby amended to read as follows:

437.470 1. Any person who has been placed on probation or whose license ~~[-certificate]~~ or registration has been limited, suspended or revoked pursuant to this chapter is entitled to judicial review of the order.

2. Every order which limits the practice of applied behavior analysis or suspends or revokes a license ~~[-certificate]~~ or registration is effective from the date the ~~[-Division-certifies]~~ **Board issues** the order until the date the order is modified or reversed by a final judgment of the court.

3. The district court shall give a petition for judicial review of the order priority over other civil matters which are not expressly given priority by law.

**Sec. 39.** NRS 437.475 is hereby amended to read as follows:

437.475 *1.* Notwithstanding the provisions of chapter 622A of NRS:

~~{1}~~ (a) Pending disciplinary proceedings before the Division or a hearing officer, the court may, upon application by the Division or the Attorney General, issue a temporary restraining order or a preliminary injunction to enjoin any unprofessional conduct of a behavior analyst, an assistant behavior analyst ~~{, a state certified behavior interventionist}~~ or a registered behavior technician which is harmful to the public, to limit the practice of the behavior analyst, assistant behavior analyst ~~{, state certified behavior interventionist}~~ or registered behavior technician or to suspend the license to practice as a behavior analyst or assistant behavior analyst ~~{, certificate to practice as a state certified behavior interventionist}~~ or registration to practice as a registered behavior technician without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

~~{2}~~ (b) The disciplinary proceedings before the Division or a hearing officer must be instituted and determined as promptly as the requirements for investigation of the case reasonably allow.

**2. *The Division shall not make an application pursuant to subsection 1 without the approval of the Board.***

**Sec. 40.** NRS 437.480 is hereby amended to read as follows:

437.480 *1.* The Division, ***with the approval of the Board,*** or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person practicing in violation of NRS 437.510 or as a behavior analyst, assistant behavior analyst ~~{, state certified behavior interventionist}~~ or registered behavior technician without the proper license ~~{, certificate}~~ or registration. ~~{from the Division.}~~

*2.* Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Does not relieve any person from criminal prosecution for practicing without a license ~~{, certificate}~~ or registration.

**Sec. 41.** NRS 437.485 is hereby amended to read as follows:

437.485 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Division, a review panel of a hospital, an association of behavior analysts, assistant behavior analysts ~~{, state certified behavior interventionists}~~ or registered behavior technicians, or any other person who or organization which initiates a complaint or assists in any lawful investigation or proceeding concerning the licensure of a behavior analyst or assistant behavior analyst ~~{, certification of a state certified behavior interventionist}~~ or registration of a registered behavior technician or the discipline of a behavior analyst, an assistant behavior analyst ~~{, a state certified behavior interventionist}~~ or a registered behavior technician for gross malpractice, repeated malpractice, professional incompetence or unprofessional conduct is immune from any civil action for that initiation or

assistance or any consequential damages, if the person or organization acted without malicious intent.

**Sec. 42.** NRS 437.490 is hereby amended to read as follows:

437.490 1. Any person:

- (a) Whose practice of applied behavior analysis has been limited;
- (b) Whose license ~~[-certificate]~~ or registration has been revoked; or
- (c) Who has been placed on probation,

→ by an order of the ~~[-Division or a hearing officer]~~ **Board** may apply to the Division after 1 year for removal of the limitation or termination of the probation or may apply to the Division pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license ~~[-certificate]~~ or registration.

2. In hearing the application, the Division:

- (a) May require the person to submit such evidence of changed conditions and of fitness as it considers proper.
- (b) Shall determine whether under all the circumstances the time of the application is reasonable.

(c) ~~[-May]~~ **Shall submit its determination concerning the application to the Board.**

**3. Upon receiving a determination of the Division pursuant to paragraph (c) of subsection 2, the Board may deny the application or modify or rescind its order as it considers the evidence and the public safety warrants.**

**Sec. 43.** NRS 437.500 is hereby amended to read as follows:

437.500 Except as otherwise provided in NRS 437.060, 437.065 and 437.070, a person shall not represent himself or herself as a behavior analyst, assistant behavior ~~[-analyst, state certified behavior interventionist]~~ or registered behavior technician within the meaning of this chapter or engage in the practice of applied behavior analysis unless he or she is licensed ~~[-certified]~~ or registered as required by the provisions of this chapter.

**Sec. 44.** NRS 437.505 is hereby amended to read as follows:

437.505 1. A licensed assistant behavior analyst shall not provide or supervise behavioral therapy except under the supervision of:

- (a) A licensed psychologist; or
- (b) A licensed behavior analyst.

2. A ~~[-state certified behavior interventionist or]~~ registered behavior technician shall not provide behavioral therapy except under the supervision of:

- (a) A licensed psychologist;
- (b) A licensed behavior analyst; or
- (c) A licensed assistant behavior analyst.

**Sec. 45.** NRS 437.510 is hereby amended to read as follows:

437.510 Any person who:

1. Presents as his or her own the diploma, license, certificate, registration or credentials of another;

2. Gives either false or forged evidence of any kind to the Division in connection with an application for a license ~~[-certificate]~~ or registration;

3. Practices applied behavior analysis under a false or assumed name or falsely personates another behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician of a like or different name;

4. Except as otherwise provided in NRS 437.060 and 437.065, represents himself or herself as a behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician, or uses any title or description which indicates or implies that he or she is a behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician, unless he or she has been issued a license ~~[-certificate]~~ or registration as required by this chapter; or

5. Except as otherwise provided in NRS 437.060, 437.065 and 437.070, practices as an applied behavior analyst, assistant behavior analyst ~~[-state certified behavior interventionist]~~ or registered behavior technician unless he or she has been issued a license ~~[-certificate]~~ or registration, as applicable,  
 ↪ is guilty of a gross misdemeanor.

**Sec. 46.** NRS 287.0276 is hereby amended to read as follows:

287.0276 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the plan of self-insurance under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a plan of self-insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan of self-insurance; or

(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan of self-insurance uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, a governing body of any county, school district, municipal corporation, political subdivision,

public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance may request a copy of and review a treatment plan created pursuant to this subsection.

6. A plan of self-insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan of self-insurance or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance to provide reimbursement to a school for services delivered through school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism spectrum disorder” has the meaning ascribed to it in NRS 427A.875.

(c) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~or~~ registered behavior technician. ~~for state-certified behavior interventionist.~~

(d) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) “Licensed assistant behavior analyst” means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) “Licensed behavior analyst” means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) “Registered behavior technician” has the meaning ascribed to it in NRS 437.050.

(l) “Screening for autism spectrum disorders” means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.

~~(m) “State-certified behavior interventionist” has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(o)~~ **(n)** “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 47.** NRS 427A.040 is hereby amended to read as follows:

427A.040 1. The Division shall, consistent with the priorities established by the Commission pursuant to NRS 427A.038:

(a) Serve as a clearinghouse for information related to problems of the aged and aging.

(b) Assist the Director in all matters pertaining to problems of the aged and aging.

(c) Develop plans, conduct and arrange for research and demonstration programs in the field of aging.

(d) Provide technical assistance and consultation to political subdivisions with respect to programs for the aged and aging.

(e) Prepare, publish and disseminate educational materials dealing with the welfare of older persons.

(f) Gather statistics in the field of aging which other federal and state agencies are not collecting.

(g) Stimulate more effective use of existing resources and available services for the aged and aging.

(h) Develop and coordinate efforts to carry out a comprehensive State Plan for Providing Services to Meet the Needs of Older Persons. In developing and revising the State Plan, the Division shall consider, among other things, the amount of money available from the Federal Government for services to aging persons and the conditions attached to the acceptance of such money, and the limitations of legislative appropriations for services to aging persons.

(i) Coordinate all state and federal funding of service programs to the aging in the State.

2. The Division shall:

(a) Provide access to information about services or programs for persons with disabilities that are available in this State.

(b) Work with persons with disabilities, persons interested in matters relating to persons with disabilities and state and local governmental agencies in:

(1) Developing and improving policies of this State concerning programs or services for persons with disabilities, including, without limitation, policies concerning the manner in which complaints relating to services provided pursuant to specific programs should be addressed; and

(2) Making recommendations concerning new policies or services that may benefit persons with disabilities.

(c) Serve as a liaison between state governmental agencies that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities.

(d) Serve as a liaison between local governmental agencies in this State that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities. To inform local governmental agencies in this State of services and programs of other local governmental agencies in this State for persons with disabilities pursuant to this subsection, the Division shall:

(1) Provide technical assistance to local governmental agencies, including, without limitation, assistance in establishing an electronic network

that connects the Division to each of the local governmental agencies that provides services or programs to persons with disabilities;

(2) Work with counties and other local governmental entities in this State that do not provide services or programs to persons with disabilities to establish such services or programs; and

(3) Assist local governmental agencies in this State to locate sources of funding from the Federal Government and other private and public sources to establish or enhance services or programs for persons with disabilities.

(e) Administer the following programs in this State that provide services for persons with disabilities:

(1) The program established pursuant to NRS 427A.791, 427A.793 and 427A.795 to provide services for persons with physical disabilities;

(2) The programs established pursuant to NRS 427A.800, 427A.850 and 427A.860 to provide services to persons with traumatic brain injuries;

(3) The program established pursuant to NRS 427A.797 to provide devices for telecommunication to persons who are deaf and persons with impaired speech or hearing;

(4) Any state program for independent living established pursuant to 29 U.S.C. §§ 796 et seq., with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation acting as the designated state unit, as that term is defined in 34 C.F.R. § ~~364.4~~ 385.4; and

(5) Any state program established pursuant to the Assistive Technology Act of 1998, 29 U.S.C. §§ 3001 et seq.

(f) Provide information to persons with disabilities on matters relating to the availability of housing for persons with disabilities and identify sources of funding for new housing opportunities for persons with disabilities.

(g) Before establishing policies or making decisions that will affect the lives of persons with disabilities, consult with persons with disabilities and members of the public in this State through the use of surveys, focus groups, hearings or councils of persons with disabilities to receive:

(1) Meaningful input from persons with disabilities regarding the extent to which such persons are receiving services, including, without limitation, services described in their individual service plans, and their satisfaction with those services; and

(2) Public input regarding the development, implementation and review of any programs or services for persons with disabilities.

(h) Publish and make available to governmental entities and the general public a biennial report which:

(1) Provides a strategy for the expanding or restructuring of services in the community for persons with disabilities that is consistent with the need for such expansion or restructuring;

(2) Reports the progress of the Division in carrying out the strategic planning goals for persons with disabilities identified pursuant to chapter 541, Statutes of Nevada 2001;



(3) Documents significant problems affecting persons with disabilities when accessing public services, if the Division is aware of any such problems;

(4) Provides a summary and analysis of the status of the practice of interpreting and the practice of realtime captioning, including, without limitation, the number of persons engaged in the practice of interpreting in an educational setting in each professional classification established pursuant to NRS 656A.100 and the number of persons engaged in the practice of realtime captioning in an educational setting; and

(5) Recommends strategies and, if determined necessary by the Division, legislation for improving the ability of the State to provide services to persons with disabilities and advocate for the rights of persons with disabilities.

3. The Division shall confer with the Department as the sole state agency in the State responsible for administering the provisions of this chapter and chapter 435 of NRS.

4. The Division shall ~~administer~~:

(a) **Administer** the provisions of chapters 435 ~~437~~ and 656A of NRS ~~437~~; **and**

(b) **Assist the Board of Applied Behavior Analysis in the administration of the provisions of chapter 437 of NRS as prescribed in that chapter.**

5. The Division may contract with any appropriate public or private agency, organization or institution, in order to carry out the provisions of this chapter and chapter 435 of NRS.

**Sec. 48.** NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A person who is licensed to practice dentistry in this State;
3. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
4. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;
5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;
6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;
7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a clinical alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;
8. A person who is licensed as a behavior analyst or an assistant behavior analyst ~~certified as a state-certified behavior interventionist~~ or registered as a registered behavior technician pursuant to chapter 437 of NRS, while engaged in the practice of applied behavior analysis as defined in NRS 437.040; or
9. Any member of the clergy,

↪ if such a person does not commit an act described in NRS 641.440 or represent himself or herself as a psychologist.

**Sec. 49.** NRS 689A.0435 is hereby amended to read as follows:

689A.0435 1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to a school for services delivered through school services.

7. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and

consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorder" has the meaning ascribed to it in NRS 427A.875.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~or~~ ~~or~~ registered behavior technician. ~~for state certified behavior interventionist.~~

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) "Licensed assistant behavior analyst" means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) "Licensed behavior analyst" means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Registered behavior technician" has the meaning ascribed to it in NRS 437.050.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) ~~"State certified behavior interventionist" has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(n)~~ (n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 50.** NRS 689B.0335 is hereby amended to read as follows:

689B.0335 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➔ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to a school for services delivered through school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorder" has the meaning ascribed to it in NRS 427A.875.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~or registered behavior technician~~ ~~or state-certified behavior interventionist.~~

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) "Licensed assistant behavior analyst" means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) "Licensed behavior analyst" means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) “Registered behavior technician” has the meaning ascribed to it in NRS 437.050.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~(m) [“State-certified behavior interventionist” has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(o)~~ (n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 51.** NRS 689C.1655 is hereby amended to read as follows:

689C.1655 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health benefit plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health benefit plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➔ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.

6. A health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a carrier to provide reimbursement to a school for services delivered through school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism spectrum disorder” has the meaning ascribed to it in NRS 427A.875.

(c) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~or~~ ~~or~~ registered behavior technician. ~~for state-certified behavior interventionist.~~

(d) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) “Licensed assistant behavior analyst” means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) “Licensed behavior analyst” means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that

organization and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) “Registered behavior technician” has the meaning ascribed to it in NRS 437.050.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~(m) “State certified behavior interventionist” has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(o)~~ (n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 52.** NRS 695C.1717 is hereby amended to read as follows:

695C.1717 1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.



4. Except as otherwise provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a health maintenance organization to provide reimbursement to a school for services delivered through school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorder" has the meaning ascribed to it in NRS 427A.875.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~†~~ ~~or~~ registered behavior technician . ~~for state certified behavior interventionist.~~

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) “Licensed assistant behavior analyst” means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) “Licensed behavior analyst” means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) “Registered behavior technician” has the meaning ascribed to it in NRS 437.050.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

~~(m) “State certified behavior interventionist” has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(o)~~ (n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 53.** NRS 695G.1645 is hereby amended to read as follows:

695G.1645 1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

3. Coverage provided under this section is subject to:

(a) A maximum benefit of the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

5. Except as otherwise provided in subsections 1, 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.

7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 3 is void.

8. Nothing in this section shall be construed as requiring a managed care organization to provide reimbursement to a school for services delivered through school services.

9. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorder" has the meaning ascribed to it in NRS 427A.875.

(c) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst ~~or~~ **or** registered behavior technician. ~~for state certified behavior interventionist.~~

(d) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) “Licensed assistant behavior analyst” means a person who holds current certification as a Board Certified Assistant Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(g) “Licensed behavior analyst” means a person who holds current certification as a Board Certified Behavior Analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and is licensed as a behavior analyst by the Aging and Disability Services Division of the Department of Health and Human Services.

(h) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) “Registered behavior technician” has the meaning ascribed to it in NRS 437.050.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) ~~“State certified behavior interventionist” has the meaning ascribed to it in NRS 437.055.~~

~~(n)~~ “Therapeutic care” means services provided by licensed or certified speech-language pathologists, occupational therapists and physical therapists.

~~(o)~~ **(n)** “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

**Sec. 54.** Notwithstanding the amendatory provisions of this act:

1. A state certified behavior interventionist who is certified by the Aging and Disability Services Division of the Department of Health and Human Services before July 1, 2019, shall be deemed to be registered as a registered behavior technician by the Board of Applied Behavior Analysis until January 1, 2020.

2. Any disciplinary or other administrative action taken against a behavior analyst, assistant behavior analyst, state certified behavior interventionist or registered behavior technician by the Aging and Disability Services Division of the Department of Health and Human Services before July 1, 2019, remains in effect as if the action had been taken by the Board of Applied Behavior Analysis.

3. A license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician that is valid on July 1, 2019, and that was issued by the Aging and Disability Services Division of the Department of Health and Human Services:

(a) Shall be deemed to be issued by the Board of Applied Behavior Analysis; and

(b) Remains valid until its date of expiration, if the holder of the license otherwise remains qualified for the issuance or renewal of the license on or after July 1, 2019.

**Sec. 55.** Notwithstanding the amendatory provisions of section 16 of this act transferring authority to adopt regulations prescribing fees for the issuance or renewal of a license as a behavior analyst or assistant behavior analyst from the Aging and Disability Services Division of the Department of Health and Human Services to the Board of Applied Behavior Analysis, any regulations adopted by the Board of Psychological Examiners pursuant to NRS 641.100 and 641.228, before July 1, 2019, that prescribe fees for the issuance or renewal of the license of a behavior analyst or assistant behavior analyst remain in effect and may be enforced by the Aging and Disability Services Division of the Department of Health and Human Services until the Board of Applied Behavior Analysis adopts regulations to repeal or replace those regulations.

**Sec. 56.** NRS 437.055 is hereby repealed.

**Sec. 57.** This act becomes effective on July 1, 2019.

#### TEXT OF REPEALED SECTION

**437.055 “State certified behavior interventionist” defined.** “State certified behavior interventionist” means a person who is certified as such by the Division and provides behavioral therapy under the supervision of:

1. A licensed psychologist;
2. A licensed behavior analyst; or
3. A licensed assistant behavior analyst.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 296.

Bill read second time and ordered to third reading.

Senate Bill No. 316.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 782.

AN ACT relating to public nuisances; making it a public nuisance for a person to engage in certain activities relating to highways, roads, state lands or other public lands or lands dedicated to public use; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law states that: (1) a public nuisance is a crime against the order and economy of the State; and (2) a person commits a public nuisance if he or she engages in various activities, including without limitation, unlawfully interfering with or obstructing a street, bridge or highway. (NRS 202.450) A person who commits or maintains a public nuisance for which no special punishment is prescribed is guilty of a misdemeanor, and a court may order the person to abate the nuisance and pay a civil penalty of not less than \$500 but not more than \$5,000. (NRS 202.470, 202.480) **Section 3.2** of this bill expands existing law by making it a public nuisance for a person, by force, threat, intimidation or any other unlawful means, to prevent or obstruct the free passage or transit over or through certain highways, roads, state lands or other public lands or lands dedicated to public use or to knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of those highways, roads, state lands or other public lands or lands dedicated to public use, if the person has no leasehold interest in or claim or color of title to the highway, road, state land or other public land or land dedicated to public use. **Sections 3.4-3.8** of this bill make conforming changes.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 3.2.** NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away;

(f) That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang; or

(g) Where vagrants resort,

↳ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↳ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by the board of health and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. ***It is a public nuisance for any person:***

*(a) By force, threat or intimidation, or by fencing or otherwise enclosing, or by any other unlawful means, to prevent or obstruct the free passage or transit over or through any:*

- (1) Highway designated as a United States highway;*
- (2) Highway designated as a state highway pursuant to NRS 408.285;*
- (3) Main, ~~for~~ general or minor county road designated pursuant to NRS 403.170;*

*(4) Public road, as defined in subsection 2 of NRS 405.191;*

*(5) State land or other public land; or*

~~[(5)]~~ *(6) Land dedicated to public use; or*

*(b) To knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of such a highway, road, state land or other public land or land dedicated to public use,*

*↳ if the person has no leasehold interest, claim or color of title, made or asserted in good faith, in or to the highway, road, state land or other public land or land dedicated to public use.*

6. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~¶6-7~~ 7. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↳ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~¶7-8~~ 8. A request for emergency assistance by a tenant as described in NRS 118A.515 and 118B.152 is not a public nuisance.

~~¶8-9~~ 9. As used in this section:

(a) “Board of health” has the meaning ascribed to it in NRS 439.4797.

(b) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

(c) “Criminal gang” has the meaning ascribed to it in NRS 193.168.

(d) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.

(e) “Shooting range” has the meaning ascribed to it in NRS 40.140.

(f) “State land” has the meaning ascribed to it in NRS 383.425.



**Sec. 3.4.** NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~6~~ 7 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

**Sec. 3.6.** NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsections 3 and 4 of NRS 40.140 and subsections ~~6~~ 7 and ~~7~~ 8 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

**Sec. 3.8.** NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~6~~ 7 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

**Sec. 4.** This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 319.

Bill read second time and ordered to third reading.

Senate Bill No. 336.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 717.

SENATORS D. HARRIS, SPEARMAN, PARKS; CANNIZZARO, DONDERO LOOP, OHRENSCHALL AND SCHEIBLE

JOINT SPONSORS: ASSEMBLYMEN THOMPSON, MONROE-MORENO, TORRES, ASSEFA, FRIERSON; BILBRAY-AXELROD, CARRILLO, COHEN, DURAN, ELLISON, FLORES, GORELOW, HAFEN, HARDY, LEAVITT, MARTINEZ, MCCURDY, MILLER, MUNK, NEAL, PETERS ~~AND~~, SMITH AND WATTS

AN ACT relating to days of observance; requiring the Governor annually to proclaim July 28 to be “Buffalo Soldiers Day” in Nevada; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law sets forth certain days of observance in this State to commemorate certain persons or occasions or to publicize information regarding certain important topics. (NRS 236.018-236.085) This bill requires the Governor to annually proclaim July 28 to be “Buffalo Soldiers Day” in the State of Nevada.

WHEREAS, On July 28, 1866, after the end of the Civil War, Congress enacted legislation that allowed African-American men to serve in six segregated units in the United States Army during peacetime; and

WHEREAS, These new units, which consisted of former slaves and African-American soldiers that fought in the Civil War, were the 9th and 10th Cavalry, and the 38th, 39th, 40th and 41st Infantry, which were later reorganized as the 24th and 25th Infantry; and

WHEREAS, These soldiers were nicknamed Buffalo Soldiers by the Native Americans against whom they fought because of their reputation for toughness and bravery in battle and the buffalo fur coats that they wore in the winter; and

WHEREAS, Throughout the era of the Indian Wars, Buffalo Soldiers were posted from Montana in the Northwest to Texas, New Mexico and Arizona in the Southwest, making up approximately 20 percent of the United States Cavalry troops; and

WHEREAS, Besides their impressive military contributions, the Buffalo Soldiers also had a significant role in the expansion of the West by escorting settlers, cattle herds and railroad crews, exploring and mapping vast areas of the Southwest and stringing hundreds of miles of telegraph lines; and

WHEREAS, The Buffalo Soldiers were some of the first park rangers in the national parks of the Sierra Nevada, where they protected the parks from illegal grazing, poaching, timber thieves and forest fires and helped build roads and trails in the parks for the enjoyment of all Americans; and

WHEREAS, Buffalo Soldiers also served courageously during World War I and World War II; and

WHEREAS, African-Americans have fought with distinction in all of this country’s military engagements and 23 Buffalo Soldiers received the

Congressional Medal of Honor, which is the highest military distinction awarded in the name of Congress to members of the armed forces for bravery and service; and

WHEREAS, It is important to honor the dedication and sacrifices of the Buffalo Soldiers, recognize the contributions that they have made to the State of Nevada and to the United States and preserve their legacy; now, therefore,

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

**Section 1.** Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The Governor shall annually proclaim July 28 to be “Buffalo Soldiers Day” in the State of Nevada.***

**2. *The proclamation must call upon the news media, educators, business and labor leaders and appropriate governmental officers to bring to the attention of Nevada residents the important contributions Buffalo Soldiers made to the State of Nevada and the United States.***

**Sec. 2.** This act becomes effective upon passage and approval.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 347.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 751.

AN ACT relating to hemp; revising provisions relating to the growth, handling and production of hemp; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the growing and cultivation of industrial hemp for purposes relating to research and the growing and handling of industrial hemp and the production of agricultural hemp seed by persons registered with the State Department of Agriculture. (Chapter 557 of NRS) On December 20, 2018, the President of the United States signed the Agricultural Improvement Act of 2018 into law. Section 10113 of the Act authorizes the production of hemp under the primary jurisdiction of a state or tribal government if the state or tribal government submits a plan to the United States Secretary of Agriculture that satisfies certain requirements. (Public Law 115-334) Because federal law now refers to plants of the genus *Cannabis sativa* L. with a THC concentration of not more than 0.3 percent as “hemp” rather than “industrial

hemp,” **sections 3-6, 9, 13, 15 and 17-21** of this bill revise various sections of state law to use the term “hemp” for this plant and its derivatives.

**Section 1** of this bill requires each site used for growing, handling or producing hemp to be certified and registered with the State Department of Agriculture. **Section 14** of this bill authorizes the Department to adopt regulations for the certification and registration of such sites. **Section 5** of this bill revises the definition of the term “handler” to remove the word “raw” when referencing the handling of hemp. **Section 6** of this bill revises the definition of the term “industrial hemp” to be consistent with federal law. **Section 8** of this bill exempts a person who purchases hemp or a commodity or product made using hemp for resale or who transports hemp or a commodity or product made using hemp from the requirements of state law relating to growers, handlers and producers of hemp in certain circumstances.

**Section 9** of this bill requires an applicant for registration as a grower, handler or producer to include information concerning the land and crop management practices of the applicant in an application for registration. **Section 9** requires an applicant for renewal of registration as a grower, handler or producer to submit certain information. ~~Section 9 requires a grower, handler or producer who intends to surrender or not renew a registration to notify the Department and submit a plan for the effective disposal or eradication of certain hemp.~~ **Section 9** authorizes the Department to establish by regulation: (1) provisions relating to the transfer of a registration as a grower, handler or producer; and (2) fees for services performed by the Department.

**Section 9 also requires a grower, handler or producer who intends to surrender or not renew a registration to notify the Department and submit a plan for the effective disposal or eradication of certain hemp. Section 16 of this bill requires the Department to impose an administrative fine against a person who fails to comply with this requirement.**

**Section 12** of this bill requires a grower or handler to keep and maintain certain records for a period of not less than 3 years. **Section 12** requires a grower to submit to the Department and comply with an approved plan to dispose of a crop that is found to contain a THC concentration that exceeds the maximum THC concentration established by federal law for hemp. **Section 12** authorizes the Department to impose an administrative fine for certain land or crop management practices. **Section 13** of this bill requires a grower to submit to the Department the legal description of property on which the crop of the grower is located.

**Section 14** of this bill authorizes the Department to adopt regulations necessary to comply with any requirement imposed by the United States Department of Agriculture. **Section 14** prohibits a grower from obtaining agricultural hemp seed which was produced in this State by a person other than a producer or produced in another state by a person not registered and approved to produce and sell agricultural hemp seed in that state. **Section 14** requires a

handler to obtain hemp from a grower and agricultural hemp seed from a producer.

**Section 15** of this bill eliminates provisions that require a handler to submit a commodity or product made using hemp which is intended for human consumption for certain testing. **Section 15** requires a grower or producer to submit, before harvesting, a sample of each crop to the Department or a laboratory approved by the Department for testing to determine the THC concentration of the crop. If a crop is harvested before such testing is completed, **section 15** authorizes the Department to detain, seize or embargo the crop.

**Section 17** of this bill eliminates provisions that make growing or handling hemp or producing agricultural hemp seed without a registration a misdemeanor. **Section 17** instead requires the Department to impose an administrative fine on such a person and report the person to the appropriate local law enforcement agency for investigation.

**Section 22** of this bill repeals provisions that provide for the growth or cultivation of industrial hemp for purposes relating to research. **Sections 2, 5** ~~and 7-12 and 16~~ of this bill make conforming changes.

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

**Section 1.** Chapter 557 of NRS is hereby amended by adding thereto a new section to read as follows:

***Each site used for growing, handling or producing hemp in this State must be certified by and registered with the Department before growing, handling or producing hemp.***

**Sec. 2.** NRS 557.100 is hereby amended to read as follows:

557.100 As used in ~~NRS 557.100 to 557.290, inclusive,~~ **this chapter**, unless the context otherwise requires, the words and terms defined in NRS 557.110 to 557.180, inclusive, have the meanings ascribed to them in those sections.

**Sec. 3.** NRS 557.120 is hereby amended to read as follows:

557.120 “Crop” means all ~~industrial~~ hemp grown by a grower.

**Sec. 4.** NRS 557.140 is hereby amended to read as follows:

557.140 “Grower” means a person who is registered by the Department and produces ~~industrial~~ hemp.

**Sec. 5.** NRS 557.150 is hereby amended to read as follows:

557.150 “Handler” means a person who is registered by the Department pursuant to ~~NRS 557.100 to 557.290, inclusive,~~ **this chapter** and ~~receives industrial~~ **handles** hemp for processing into commodities, products or agricultural hemp seed.

**Sec. 6.** NRS 557.160 is hereby amended to read as follows:

557.160 1. ~~“Industrial hemp”~~ **“Hemp”** means ~~—(a) Any—~~ **any** plant of the genus *Cannabis sativa L.* and any part of such a plant ~~other than a seed,~~ **including, without limitation, the seeds thereof and**

*all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers*, whether growing or not, with a THC concentration ~~of not more than~~ 0.3 percent on a dry weight basis; and

~~(b) A seed of any plant of the genus Cannabis that:~~

- ~~— (1) Is part of a crop;~~
- ~~— (2) Is retained by a grower for future planting;~~
- ~~— (3) Is agricultural hemp seed;~~
- ~~— (4) Is intended for processing into or for use as agricultural hemp seed;~~

~~or~~

~~— (5) Has been processed in a manner that renders it incapable of germination.]~~ ***that does not exceed the maximum THC concentration established by federal law for hemp.***

2. ~~["Industrial hemp"]~~ ***“Hemp”*** does not include any commodity or product made using ~~industrial~~ hemp.

**Sec. 7.** NRS 557.170 is hereby amended to read as follows:

557.170 “Producer” means a person who is registered by the Department pursuant to ~~[NRS 557.100 to 557.290, inclusive.]~~ ***this chapter*** and produces agricultural hemp seed.

**Sec. 8.** NRS 557.190 is hereby amended to read as follows:

557.190 The provisions of ~~[NRS 557.100 to 557.290, inclusive.]~~ ***this chapter*** do not apply to ~~the Department or an institution of higher education which grows or cultivates industrial hemp pursuant to NRS 557.010 to 557.080, inclusive.]~~ :

***1. A person who purchases, for the purpose of resale, hemp or a commodity or product made using hemp which was not grown or processed by the person; or***

***2. A person who transports hemp or a commodity or product made using hemp which was not grown or processed by the person,***  
***↪ if such a person reasonably believes the hemp or commodity or product made using hemp was grown or processed in compliance with the provisions of this chapter.***

**Sec. 9.** NRS 557.200 is hereby amended to read as follows:

557.200 1. A person shall not grow or handle ~~industrial~~ hemp or produce agricultural hemp seed unless the person is registered with the Department as a grower, handler or producer, as applicable.

2. A person who wishes to grow or handle industrial hemp must register with the Department as a grower or handler, as applicable.

3. A person who wishes to produce agricultural hemp seed must register with the Department as a producer unless the person is:

(a) A grower registered pursuant to subsection 2 who retains agricultural hemp seed solely pursuant to subsection 3 of NRS 557.250; or

(b) A grower or handler registered pursuant to subsection 2 who processes seeds of any plant of the genus Cannabis which are incapable of germination into commodities or products.

↪ A person may not register as a producer unless the person is also registered as a grower or handler.

4. A person who wishes to register with the Department as a grower, handler or producer must submit to the Department the fee established pursuant to subsection ~~7~~ 8 and an application, on a form prescribed by the Department, which includes:

- (a) The name and address of the applicant;
- (b) The name and address of the applicant's business in which ~~industrial~~ hemp or agricultural hemp seed will be grown, handled or produced, if different than that of the applicant; ~~and~~
- (c) ***Information concerning the land and crop management practices of the applicant; and***
- (d) Such other information as the Department may require by regulation.

5. Registration as a grower, handler or producer expires on December 31 of each year and may be renewed upon submission of an application for renewal containing ~~such~~ :

- (a) ***Proof satisfactory to the Department that the applicant complied with the provisions of this chapter and the regulations adopted pursuant thereto relating to testing of hemp;***
- (b) ***Proof satisfactory to the Department that the land and crop management practices of the applicant are adequate, consistent with any previous information submitted to the Department and do not negatively affect natural resources; and***
- (c) Such other information as the Department may require by regulation.

6. ***A grower, handler or producer who intends to surrender or not renew a registration must notify the Department not less than 30 days before the registration is surrendered or expires and submit to the Department a plan for the effective disposal or eradication of any existing live plants, viable seed or harvested crop.***

7. ~~Registration~~ ***The Department shall adopt regulations that authorize the transfer of a registration as a grower, handler or producer ~~is not transferable. It~~ and establish conditions for such a transfer. The regulations must include, without limitation, provisions which allow a grower, handler or producer which changes its business name or the ownership of the grower, handler or producer ~~changes, the grower, handler or producer must obtain a new registration pursuant to NRS 557.100 to 557.290, inclusive.~~ to transfer its registration to the new entity.***

~~7~~ 8. The Department shall establish by regulation fees for the issuance and renewal of registration as a grower, handler or producer ***and for any other service performed by the Department*** in an amount necessary to cover the costs of carrying out ~~NRS 557.100 to 557.290, inclusive.~~ ***this chapter.***

**Sec. 10.** NRS 557.210 is hereby amended to read as follows:

557.210 1. In addition to any other requirements set forth in ~~NRS 557.100 to 557.290, inclusive.~~ ***this chapter,*** an applicant for registration or the renewal of a registration as a grower, handler or producer shall:

(a) Include the social security number of the applicant in the application submitted to the Department.

(b) Submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Department.

3. Registration as a grower, handler or producer may not be issued or renewed by the Department if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 11.** NRS 557.230 is hereby amended to read as follows:

557.230 1. In addition to any other requirements set forth in ~~NRS 557.100 to 557.290, inclusive,~~ **this chapter**, an applicant for the renewal of a registration as a grower, handler or producer must indicate in the application submitted to the Department whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.

2. Registration as a grower, handler or producer may not be renewed by the Department if:

(a) The applicant fails to submit the information required by subsection 1; or

(b) The State Controller has informed the Department pursuant to subsection 5 of NRS 353C.1965 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:

(1) Satisfied the debt;

(2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or



(3) Demonstrated that the debt is not valid.

3. As used in this section:

(a) "Agency" has the meaning ascribed to it in NRS 353C.020.

(b) "Debt" has the meaning ascribed to it in NRS 353C.040.

**Sec. 12.** NRS 557.240 is hereby amended to read as follows:

557.240 1. A grower or handler shall keep ***and maintain for a period of not less than 3 years*** such records as the Department may prescribe by regulation and, upon 3 days' notice, make such records available to the Department for inspection during normal business hours. The Department may inspect records pursuant to this subsection to determine whether a person has complied with the provisions of ~~NRS 557.100 to 557.290, inclusive,~~ ***this chapter***, the regulations adopted pursuant thereto and any lawful order of the Department.

2. The Department may inspect any growing crop of a grower and take a representative sample for analysis in the field. If the testing of such a sample in the field determines that the crop contains a THC concentration ~~of more than 0.3 percent on a dry weight basis, the~~ ***that exceeds the maximum THC concentration established by federal law for hemp:***

(a) ***The*** Department may detain, seize or embargo the crop ~~it~~; ***and***

(b) ***The grower shall submit a plan for the effective disposal of the crop to the Department for its approval.***

3. ***If a grower fails to submit an approved plan to the Department pursuant to paragraph (b) of subsection 2 or fails to follow the provisions of such a plan, the Department may:***

(a) ***Impose any additional requirement it determines necessary upon the grower;***

(b) ***Suspend or revoke the registration of the grower;***

(c) ***Impose an administrative fine pursuant to NRS 557.280 on the grower;***

(d) ***Report the grower to the appropriate local law enforcement agency for investigation of a violation of the provisions of chapter 453 of NRS.***

4. ***If the Department determines that the land or crop management practices of a grower, handler or producer are inadequate, inconsistent with the information concerning such practices submitted to the Department pursuant to NRS 557.200 or negatively affect natural resources, the Department may impose an administrative fine pursuant to NRS 557.280.***

**Sec. 13.** NRS 557.250 is hereby amended to read as follows:

557.250 1. Each grower shall provide the Department with a ***legal*** description of ***and additional information to identify*** the property on which the crop of the grower is or will be located. Such ~~description~~ ***additional information*** must be in a manner prescribed by the Department and include, without limitation, global positioning system coordinates.

2. A grower may use any method for the propagation of ~~industrial~~ hemp to produce ~~industrial~~ hemp, including, without limitation, planting seeds or starts, using clones or cuttings or cultivating ~~industrial~~ hemp in a greenhouse.

3. A grower may retain agricultural hemp seed for the purpose of propagating ~~industrial~~ hemp in future years.

**Sec. 14.** NRS 557.260 is hereby amended to read as follows:

557.260 1. The Department may adopt regulations ~~establishing~~ **necessary to:**

(a) **Establish** quality standards and requirements for the packaging and labeling of agricultural hemp seed ~~+~~;

(b) **Provide for the certification and registration of sites used for growing, producing or handling hemp; and**

(c) **Comply with any requirement imposed by the United States Department of Agriculture, including, without limitation, any requirement related to reporting information regarding growers, handlers and producers.**

2. A producer shall comply with:

(a) Any regulation adopted by the Department pursuant to subsection 1; and

(b) The provisions of NRS 587.015 to 587.123, inclusive, and any regulations adopted pursuant thereto.

3. **Any agricultural hemp seed which is obtained by a grower and was produced:**

(a) **In this State must be produced by a producer; and**

(b) **In another state must be produced by a person who is registered and approved to produce and sell agricultural hemp seed pursuant to the laws of that state.**

4. The Department shall provide adequate information to growers to identify producers from which a grower may purchase agricultural hemp seed.

5. **A handler may only obtain hemp from a grower and agricultural hemp seed for cleaning and future propagation from a producer.**

**Sec. 15.** NRS 557.270 is hereby amended to read as follows:

557.270 1. A grower, handler or producer may submit ~~industrial~~ hemp or a commodity or product made using ~~industrial~~ hemp to an independent testing laboratory for testing pursuant to this section and an independent testing laboratory may perform such testing.

2. ~~A handler may not sell a commodity or product made using industrial hemp which is intended for human consumption unless the commodity or product has been submitted to an independent testing laboratory for testing and the independent testing laboratory has confirmed that the commodity or product satisfies the standards established by the Department for the content and quality of industrial hemp.~~

3. ~~The Department shall adopt regulations establishing protocols and procedures for the testing of commodities and products made using industrial hemp, including, without limitation, determining appropriate standards for sampling and for the size of batches for testing.~~

~~4.] A grower or producer shall, before harvesting, submit a sample of each crop to the Department or a laboratory approved by the Department to determine whether the crop has a THC concentration that exceeds the maximum THC concentration established by federal law for hemp.~~ The

Department may adopt regulations ~~requiring the submission of a sample of a crop of industrial hemp by a grower to an independent testing laboratory to determine whether the crop has a THC concentration of not more than 0.3 percent on a dry weight basis. The regulations may~~ *relating to such testing which* include, without limitation:

(a) Protocols and procedures for the testing of a crop, including, without limitation, determining appropriate standards for sampling and for the size of batches for testing; and

(b) A requirement that ~~an independent testing~~ a laboratory provide the results of the testing directly to the Department in a manner prescribed by the Department.

~~§. 3.~~ *3. A crop which is harvested before the testing required by subsection 2 is completed shall be deemed to have failed the testing and may be detained, seized or embargoed by the Department. The Department shall not renew the registration of a grower or producer who harvests a crop before the testing required by subsection 2 is completed.*

4. As used in this section ~~:-~~

~~(a) “Independent”~~, *“independent* testing laboratory” means a facility certified as an independent testing laboratory pursuant to NRS 453A.368.

~~(b) “Intended for human consumption” means intended for ingestion or inhalation by a human or for topical application to the skin or hair of a human.~~

**Sec. 16.** NRS 557.280 is hereby amended to read as follows:

557.280 1. The Department may refuse to issue or renew, suspend or revoke the registration of a grower, handler or producer for a violation of any provision of ~~NRS 557.100 to 557.290, inclusive,~~ *this chapter*, the regulations adopted pursuant thereto or any lawful order of the Department.

2. ~~It is~~ *The Department shall impose an administrative fine in an amount not to exceed \$2,500 on any person who fails to comply with the provisions of subsection 6 of NRS 557.200.*

3. *Except as otherwise provided in subsection 2 and in* addition to any other penalty provided by law, the Department may impose an administrative fine on any person who violates any of the provisions of ~~NRS 557.100 to 557.290, inclusive,~~ *this chapter*, the regulations adopted pursuant thereto or any lawful order of the Department in an amount not to exceed \$2,500.

~~§. 4.~~ *4.* All fines collected by the Department pursuant to ~~subsection~~ *subsections 2 and 3* must be deposited with the State Treasurer for credit to the State General Fund.

**Sec. 17.** NRS 557.290 is hereby amended to read as follows:

557.290 ~~Any~~ *If* a person ~~who~~ grows or handles ~~industrial~~ hemp or produces agricultural hemp seed without being registered with the Department pursuant to NRS 557.200, ~~is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment. The prosecuting attorney and the Department may recover the costs of the proceeding.~~

including investigative costs and attorney's fees, against a person convicted of a misdemeanor pursuant to this section.} *the Department shall:*

**1. Impose an administrative fine pursuant to NRS 557.280 on the person; and**

**2. Report the person to the appropriate local law enforcement agency for investigation of a violation of the provisions of chapter 453 of NRS.**

**Sec. 18.** NRS 453.096 is hereby amended to read as follows:

453.096 1. "Marijuana" means:

- (a) All parts of any plant of the genus Cannabis, whether growing or not;
- (b) The seeds thereof;
- (c) The resin extracted from any part of the plant, including concentrated cannabis; and
- (d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. "Marijuana" does not include:

- (a) ~~Industrial hemp,} **Hemp**, as defined in NRS ~~557.040,} **557.160**, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS; or~~~~
- (b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

**Sec. 19.** NRS 453.339 is hereby amended to read as follows:

453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of marijuana or concentrated cannabis shall be punished, if the quantity involved:

(a) Is 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis, for a category C felony as provided in NRS 193.130 and by a fine of not more than \$25,000.

(b) Is 1,000 pounds or more, but less than 5,000 pounds, of marijuana or 20 pounds or more, but less than 100 pounds, of concentrated cannabis, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(c) Is 5,000 pounds or more of marijuana or 100 pounds or more of concentrated cannabis, for a category A felony by imprisonment in the state prison:

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,  
 ➔ and by a fine of not more than \$200,000.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, except for ~~industrial~~ hemp, as defined in NRS ~~457.040,~~ **557.160**, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS. The term does not include concentrated cannabis.

(b) The weight of marijuana or concentrated cannabis is its weight when seized or as soon as practicable thereafter. If marijuana and concentrated cannabis are seized together, each must be weighed separately and treated as separate substances.

**Sec. 20.** NRS 453A.352 is hereby amended to read as follows:

453A.352 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of NRS 453A.354 and 453A.356.

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

↪ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards;

(b) Assist patients who possess valid registry identification cards or letters of approval by way of those patients' designated primary caregivers; and

(c) Return for a refund marijuana, edible marijuana products or marijuana-infused products to the medical marijuana establishment from which the marijuana, edible marijuana products or marijuana-infused products were acquired.

↪ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card or letter of approval if he or she qualifies for nonresident reciprocity pursuant to NRS 453A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Department during the registration process for the cultivation facility. Such an enclosed, locked

facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, or the designated primary caregiver of a person who holds a letter of approval may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the Department at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Department of the establishment.

8. A dual licensee, as defined in NRS 453D.030:

(a) Shall comply with the regulations adopted by the Department pursuant to paragraph (k) of subsection 1 of NRS 453D.200 with respect to the medical marijuana establishment operated by the dual licensee; and

(b) May, to the extent authorized by such regulations, combine the location or operations of the medical marijuana establishment operated by the dual licensee with the marijuana establishment, as defined in NRS 453D.030, operated by the dual licensee.

9. Each medical marijuana establishment shall install a video monitoring system which must, at a minimum:

(a) Allow for the transmission and storage, by digital or analog means, of a video feed which displays the interior and exterior of the medical marijuana establishment; and

(b) Be capable of being accessed remotely by a law enforcement agency in real-time upon request.

10. A medical marijuana establishment shall not dispense or otherwise sell marijuana, edible marijuana products or marijuana-infused products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the medical marijuana establishment.

11. If a medical marijuana establishment is operated by a dual licensee, as defined in NRS 453D.030, any provision of this section which is determined by the Department to be unreasonably impracticable pursuant to subsection 9 of NRS 453A.370 does not apply to the medical marijuana establishment.

12. A facility for the production of edible marijuana products or marijuana-infused products and a medical marijuana dispensary may acquire ~~industrial~~ hemp, as defined in NRS 557.160, from a grower or handler registered by the State Department of Agriculture pursuant to *chapter 557 of NRS*. ~~557.100 to 557.290, inclusive.~~ A facility for the production of edible marijuana products or marijuana-infused products may use ~~industrial~~ hemp to manufacture edible marijuana products and marijuana-infused products. A medical marijuana dispensary may dispense ~~industrial~~ hemp and edible marijuana products and marijuana-infused products manufactured using ~~industrial~~ hemp.

**Sec. 21.** NRS 453A.370 is hereby amended to read as follows:

453A.370 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to NRS 453A.322 and 453A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards and letters of approval.

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Department.

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the Department if a patient who holds a valid registry identification card or letter of approval has chosen the dispensary as his or her designated medical marijuana dispensary, as described in NRS 453A.366.

(g) Minimum requirements for ~~industrial~~ hemp, as defined in NRS 557.160, which is used by a facility for the production of edible marijuana products or marijuana-infused products to manufacture edible marijuana products or marijuana-infused products or dispensed by a medical marijuana dispensary.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 453A.344 may be reduced over time to ensure that the fees imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue neutral.

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver, in any one 14-day period. Such an amount must not exceed the limits set forth in NRS 453A.200.

5. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.

6. In cooperation with the applicable professional licensing boards, establish a system to:

(a) Register and track attending providers of health care who advise their patients that the medical use of marijuana may mitigate the symptoms or effects of the patient's medical condition;

(b) Insofar as is possible, track and quantify the number of times an attending provider of health care described in paragraph (a) makes such an advisement; and

(c) Provide for the progressive discipline of attending providers of health care who advise the medical use of marijuana at a rate at which the Department, in consultation with the Division, and applicable board determine and agree to be unreasonably high.

7. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer or provide labor as a medical marijuana establishment agent.

8. Provide for the maintenance of a log by the Department, in consultation with the Division, of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200. The Department shall ensure that the contents of the log are available for verification by law enforcement personnel 24 hours a day.

9. Determine whether any provision of NRS 453A.350 or 453A.352 would make the operation of a medical marijuana establishment or marijuana establishment, as defined in NRS 453D.030, by a dual licensee, as defined in NRS 453D.030, unreasonably impracticable, as defined in NRS 453D.030.

10. Address such other matters as may assist in implementing the program of dispensation contemplated by NRS 453A.320 to 453A.370, inclusive.

**Sec. 22.** NRS 557.010, 557.020, 557.030, 557.040, 557.050, 557.060, 557.070 and 557.080 are hereby repealed.

**Sec. 23.** This act becomes effective on July 1, 2019.



## LEADLINES OF REPEALED SECTIONS

**557.010 Definitions.****557.020 “Agricultural pilot program” defined.****557.030 “Department” defined.****557.040 “Industrial hemp” defined.****557.050 “Institution of higher education” defined.****557.060 “THC” defined.****557.070 Growing and cultivation of industrial hemp for certain purposes; certification and registration of site.****557.080 Regulations.**

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 362.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 733.

AN ACT relating to residential facilities; requiring the administrator of a residential facility for groups to ensure that certain assessments of residents are conducted; requiring a resident with severe dementia to be placed in a facility that meets certain requirements; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the State Board of Health to adopt separate regulations governing the licensing of facilities for the care of adults during the day and residential facilities for groups which provide care to persons with Alzheimer’s disease. (NRS 449.0302) **Section 4** of this bill requires those regulations to also apply to such facilities which provide care to persons with other severe dementia. **Section 1** of this bill requires the administrator of a residential facility for groups to annually: (1) cause a ~~physician~~ **qualified provider of health care** to conduct a physical examination of each resident of the facility; and (2) conduct an assessment of the history of each resident. If the physical examination, the assessment of resident history or the observations of certain persons indicate that a resident requires a secure facility or a facility with a high staff-to-resident ratio ~~(,)~~ **or the condition of a resident has significantly changed, section 1** requires the administrator to cause a ~~physician~~ **qualified provider of health care** to conduct an assessment of the condition and needs of the resident. If the ~~physician~~ **provider of health care** determines that the resident suffers from dementia to an extent that the resident may be a danger to himself or herself or others if not placed in a secure unit or a facility with a high staff-to-resident ratio, **section 1** requires any residential facility in which

the resident is placed to meet the requirements prescribed by the Board for a facility which provides care to persons with Alzheimer's disease or other severe dementia. **Sections 2, 3 and 5-8** of this bill make conforming changes.

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

**Section 1.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The administrator of a residential facility for groups shall:**

(a) Annually cause a ~~physician~~ qualified provider of health care to conduct a physical examination of each resident of the facility;

(b) Annually conduct an assessment of the history of each resident of the facility, which must include, without limitation, an assessment of the condition and daily activities of the resident during the immediately preceding year; and

(c) Cause a ~~physician~~ qualified provider of health care to conduct an assessment of the condition and needs of a resident of the facility to determine whether the resident meets the criteria prescribed in paragraph (a) of subsection 2:

(1) Upon admission of the resident to the facility; and

(2) If a physical examination, assessment of the history of ~~the~~ the resident or the observations of the administrator or staff of the facility, ~~for~~ the family of the resident or another person who has a relationship with the resident indicate that ~~the~~;

(I) The resident may meet those criteria ~~for~~; or

(II) The condition of the resident has significantly changed.

**2. If, as a result of an assessment conducted pursuant to paragraph (c) of subsection 1, the ~~physician~~ provider of health care determines that the resident:**

(a) *Suffers from dementia to an extent that the resident may be a danger to himself or herself or others if the resident is not placed in a secure unit or a facility that assigns not less than one staff member for every six residents, any residential facility for groups in which the resident is placed must meet the requirements prescribed by the Board pursuant to subsection 2 of NRS 449.0302 for the licensing and operation of residential facilities for groups which provide care to persons with Alzheimer's disease or other severe dementia.*

(b) *Does not suffer from dementia as described in paragraph (a), the resident may be placed in any residential facility for groups.*

**3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.**

**Sec. 2.** NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, **and section 1 of this act**, unless the context otherwise requires, "medical facility" has the

meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.

**Sec. 3.** NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, **and section 1 of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility, facility for the dependent or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed that is operated and maintained by the United States Government or an agency thereof.

**Sec. 4.** NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.029 to 449.2428, inclusive, **and section 1 of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.029 to 449.2428, inclusive ~~†~~, **and section 1 of this act.**

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↪ which provide care to persons with Alzheimer's disease ~~†~~ **or other severe dementia, as described in paragraph (a) of subsection 2 of section 1 of this act.**

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

- (1) Except as otherwise provided in subsection 8, contain toilet facilities;
- (2) Contain a sleeping area or bedroom; and
- (3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➔ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

**Sec. 5.** NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.2428, inclusive, **and section 1 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, **and section 1 of this act**, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430,

inclusive, **and section 1 of this act** and 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

**Sec. 6.** NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, **and section 1 of this act**, or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) Impose an administrative penalty of not more than \$5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, **and section 1 of this act** or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, **and section 1 of this act**, 449.435 to 449.530, inclusive, and 449.760 and chapter 449A of NRS to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature.

**Sec. 7.** NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive ~~†~~, **and section 1 of this act**.

**Sec. 8.** NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.



(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, **and section 1 of this act**, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for licensees, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the licensee and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

**Sec. 9.** This act becomes effective on July 1, 2019.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 398.

Bill read second time and ordered to third reading.

Senate Bill No. 414.

Bill read second time and ordered to third reading.

Senate Bill No. 430.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 813.

AN ACT relating to marijuana; expanding the definition of “chronic or debilitating medical condition” for certain purposes relating to the medical use of marijuana; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law generally exempts a person who holds a valid registry identification card or letter of approval from state prosecution for possession, delivery and production of marijuana. (NRS 453A.200, 453A.205) To obtain a registry identification card or letter of approval, an applicant must submit to the Division of Public and Behavioral Health of the Department of Health and Human Services, among other requirements, a signature from the applicant’s attending provider of health care affirming that the applicant has been diagnosed with a chronic or debilitating medical condition. (NRS 453A.210) This bill expands the definition of “chronic or debilitating medical condition” to include certain additional medical conditions.

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

**Section 1.** NRS 453A.050 is hereby amended to read as follows:

453A.050 “Chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. *An anxiety disorder;*
3. *An autism spectrum disorder;*
4. *An autoimmune disease;*
5. Cancer;
6. *Dependence upon or addiction to opioids;*
- ~~{3-}~~ 7. Glaucoma;
- ~~{4-}~~ 8. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
  - (a) ~~{Cachexia;}~~ *Anorexia or cachexia;*
  - (b) ~~{Persistent muscle}~~ *Muscle* spasms, including, without limitation, spasms caused by multiple sclerosis;
  - (c) Seizures, including, without limitation, seizures caused by epilepsy;
  - (d) Severe nausea; ~~{Nausea;}~~ or
  - (e) Severe *or chronic* pain; ~~{or}~~
9. *A medical condition related to acquired immune deficiency syndrome or the human immunodeficiency virus;*
10. *A neuropathic condition, whether or not such condition causes seizures; or*
- ~~{5-}~~ 11. Any other medical condition or treatment for a medical condition that is:
  - (a) Classified as a chronic or debilitating medical condition by regulation of the Division; or
  - (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with NRS 453A.710.

**Sec. 2.** This act becomes effective on July 1, 2019.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 451.

Bill read second time and ordered to third reading.

Senate Bill No. 462.

Bill read second time and ordered to third reading.

Senate Bill No. 470.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 732.

AN ACT relating to health care; requiring the State Board of Health to require a medical facility , facility for the dependent or facility which is otherwise required to be licensed by regulations adopted by the Board to conduct training relating specifically to cultural competency for certain agents and employees of ~~the medical~~ such a facility; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 4.5** of this bill requires the State Board of Health to, by regulation, require a medical facility , facility for the dependent or facility which is otherwise required to be licensed by regulations adopted by the Board pursuant to NRS 449.0303 to conduct training relating specifically to cultural competency for any agent or employee of ~~the medical~~ such a facility who provides care to a patient or resident of the ~~medical~~ facility. **Section 4.5** provides that such cultural competency training is required so that such an agent or employee may better understand patients or residents who ~~are from~~ have different ~~cultures and~~ cultural backgrounds, including patients or residents who are: (1) from various gender, racial and ethnic backgrounds; (2) from various religious backgrounds; (3) lesbian, gay, bisexual, transgender and questioning persons; (4) children and senior citizens; (5) persons with a mental or physical disability; and (6) part of any other population, as determined by the Board. **Section 4.5** requires such training to be provided through a course or program that is approved by the Department of Health and Human Services.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

Sec. 4.5. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. To enable an agent or employee of a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed who provides care to a patient or resident of the ~~medical~~ facility to more effectively treat patients ~~or~~ or care for residents, as applicable, the Board shall, by regulation, require such a ~~medical~~ facility to conduct training relating specifically to cultural competency for any agent or employee of the ~~medical~~ facility who provides care to a patient or resident of the ~~medical~~ facility so that such an agent or employee may better understand patients or residents who ~~are from~~ have different ~~cultures and~~ cultural backgrounds, including, without limitation, patients or residents who are:

- (a) From various gender, racial and ethnic backgrounds;
- (b) From various religious backgrounds;
- (c) Lesbian, gay, bisexual, transgender and questioning persons;
- (d) Children and senior citizens;
- (e) Persons with a mental or physical disability; and
- (f) Part of any other population that such an agent or employee may need to better understand, as determined by the Board.

2. The training relating specifically to cultural competency conducted by a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed pursuant to subsection 1 must be provided through a course or program that is approved by the Department of Health and Human Services.

Sec. 5. This act becomes effective on July 1, 2019.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 477.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 814.

SUMMARY—Prohibits the release of a child to a parent or guardian **in a child welfare proceeding** in certain circumstances. (BDR 38-1005)

AN ACT relating to child welfare; revising provisions governing the release of a child in a child welfare proceeding to a parent or guardian; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a court from releasing a child who has been placed in protective custody to a parent or guardian who has been convicted of the abuse, neglect or endangerment of a child under Nevada law unless the court finds by

clear and convincing evidence that no physical or psychological harm to the child will result from the release of the child to the parent or guardian. (NRS 432B.555) This bill further makes this prohibition apply: (1) to the release of any child **who is subject to the proceeding** to such a parent, regardless of whether the child has been placed in protective custody; and (2) if the parent or guardian has been convicted of the law of another jurisdiction that prohibits the same or similar conduct as that prohibited by Nevada law.

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

**Section 1.** NRS 432B.555 is hereby amended to read as follows:

432B.555 In any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, if the court determines that a custodial parent or guardian of a child ~~who has been placed in protective custody~~ has ever been convicted of a violation of NRS 200.508 ~~or~~ **or the law of another jurisdiction that prohibits the same or similar conduct**, the court shall not release the child **or any other child who is subject to the proceeding** to that custodial parent or guardian unless the court finds by clear and convincing evidence presented at the proceeding that no physical or psychological harm to the child will result from the release of the child to that parent or guardian.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 480.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 824.

AN ACT relating to courts; revising provisions relating to the number of justices of the peace in each township; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law sets forth a schedule for determining how many elected justices of the peace a township is required to have based upon the population of the township. If the schedule requires an additional justice of the peace due to an increased population of the township, existing law provides that if a majority of the justices of the peace in the township submit to the Legislature and the board of county commissioners an opinion stating that the caseload of the court does not warrant an additional judge, the number of justices of the peace in that township is prohibited from being increased while the Legislature considers the opinion. (NRS 4.020) ~~This~~ **Section 1 of this** bill revises this process by requiring the justices of the peace to consult with the board of

county commissioners in reaching an opinion as to whether the caseload of the court ~~and the availability of funding warrant~~ warrants an additional judge.

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

**Section 1.** NRS 4.020 is hereby amended to read as follows:

4.020 1. There must be one justice court in each of the townships of the State, for which there must be elected by the qualified electors of the township at least one justice of the peace. Except as otherwise provided in subsection 3, the number of justices of the peace in a township must be increased according to the population of the township, as certified by the Governor in even-numbered years pursuant to NRS 360.285, in accordance with and not to exceed the following schedule:

(a) In a county whose population is 700,000 or more:

(1) In a township whose population is less than 1,100,000, one justice of the peace for each 100,000 population of the township, or fraction thereof, until the township has four justices of the peace, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 300,000; and

(2) In a township whose population is 1,100,000 or more, one justice of the peace for each 100,000 population of the township, or fraction thereof, up to a population of 1,100,000, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 1,100,000.

(b) In a county whose population is 100,000 or more and less than 700,000, one justice of the peace for each 50,000 population of the township, or fraction thereof.

(c) In a county whose population is less than 100,000, one justice of the peace for each ~~34,000~~ **50,000** population of the township, or fraction thereof.

(d) If a township includes a city created by the consolidation of a city and county into one municipal government, one justice of the peace for each 30,000 population of the township, or fraction thereof.

2. Except as otherwise provided in subsection 3, if the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township, the new justice or justices of the peace must be elected at the next ensuing biennial election.

3. If the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township and ~~is, in the opinion of~~ a majority of the justices of the peace in that township, ***in consultation with the board of county commissioners, determine that*** the caseload does ~~and the availability of funding do~~ not warrant an additional justice of the peace, the justices of the peace shall notify the Director of the Legislative Counsel Bureau and the board of county commissioners of their opinion on or before March 15 of the even-numbered year in which the population of the township provides for such an increase. The Director of the Legislative Counsel Bureau shall

submit the opinion to the next regular session of the Legislature for its consideration. If the justices of the peace transmit such a notice to the Director of the Legislative Counsel Bureau and the board of county commissioners, the number of justices must not be increased during that period unless the Legislature, by resolution, expressly approves the increase.

4. Justices of the peace shall receive certificates of election from the boards of county commissioners of their respective counties.

5. The clerk of the board of county commissioners shall, within 10 days after the election or appointment and qualification of any justice of the peace, certify under seal to the Secretary of State the election or appointment and qualification of the justice of the peace. The certificate must be filed in the Office of the Secretary of State as evidence of the official character of that officer.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Joint Resolution No. 1.

Resolution read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 749.

SENATE JOINT RESOLUTION—Urging Congress to require the Bureau of Land Management and the United States Forest Service to include cheatgrass in certain forage estimates.

WHEREAS, The Federal Government manages and controls approximately 86 percent of the land in the State of Nevada; and

WHEREAS, The health of those public lands is critical to a wide variety of activities vital for this State's economic success, such as agriculture, ranching, mining and outdoor recreation, as well as for the conservation of wildlife habitat and the preservation of our unique historical and cultural resources; and

WHEREAS, In recent years, wildfires, although they have always been a component of Nevada's natural ecology, have dramatically increased in both frequency and intensity, burning hundreds of thousands of acres of public and private lands, including more than 1.2 million acres in 2017 alone, degrading the land, destroying critical wildlife habitat, causing soil erosion and diminishing water quality; and

WHEREAS, The most significant single contributor to the increases of those wildfires and their harmful effects is the aggressive territorial expansion of cheatgrass (*Bromus tectorum*), a nonnative, invasive species of annual grass, which is progressively displacing native plant species, even becoming the dominant species on public lands in some areas of this State; and

WHEREAS, Research conducted by the University of Nevada, Reno, and elsewhere, has demonstrated that highly targeted and managed livestock

grazing of cheatgrass can disrupt the life cycle of the cheatgrass and decrease the accumulation of cheatgrass on the rangelands as fuel, thus causing reductions in both the frequency and intensity of wildfires and contributing to the recovery of native plant species in the grazed areas; and

WHEREAS, The management and control of livestock grazing on the public lands of this State are primarily the responsibility of the Bureau of Land Management and the United States Forest Service; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 80th Session of the Nevada Legislature hereby urge Congress to work with the Bureau of Land Management and the United States Forest Service to ensure that, **in areas of cheatgrass monoculture**, cheatgrass is included **in the calculation for temporary non-renewable (TNR) use** in the forage estimates that those agencies use in their management and control of livestock grazing on the public lands of this State; and be it further

**RESOLVED, That Congress is further urged to ensure that any forage estimates for an area of the public lands that have been increased by the inclusion of cheatgrass in the calculation for temporary non-renewable (TNR) use reflect the annual conditions of the area and consider perennial grasses located in the area and the proportional abundance of forage within the area; and be it further**

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States, as the presiding officer of the United States Senate, the Speaker of the United States House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Bill No. 502.

Bill read second time and ordered to third reading.

Assembly Bill No. 507.

Bill read second time and ordered to third reading.

Assembly Bill No. 509.

Bill read second time and ordered to third reading.

Senate Bill No. 7.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 816.



SUMMARY—Revises provisions relating to the ~~prohibitions against facilitating sex trafficking and pandering;~~ solicitation of a child for prostitution. (BDR 15-406)

AN ACT relating to crimes; ~~revising the circumstances that constitute pandering;~~ providing that a person who solicits for prostitution a peace officer posing as a child or another person who ~~the person believes to be~~ is assisting a peace officer by posing as a child ~~to engage in prostitution~~ is guilty of ~~facilitating sex trafficking; providing~~ soliciting a child for prostitution; increasing the penalties ~~for~~ for the solicitation of a child for prostitution; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~Existing law establishes the circumstances in which a person is guilty of facilitating sex trafficking. (NRS 201.301) Section 2 of this bill additionally provides that a person is guilty of facilitating sex trafficking if he or she solicits a child or another person who the person believes to be a child, regardless of the actual age of the other person, to engage in prostitution. Section 5 of this bill makes conforming changes.~~

~~Existing law provides that a person found guilty of facilitating sex trafficking is guilty of a category B felony and, if the victim is less than 18 years of age, is required to be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years. (NRS 201.301) Section 2 imposes such a penalty on a person if the person believed the victim to be less than 18 years of age.~~

~~Section 2 provides that in the prosecution of a person for facilitating sex trafficking in which the person solicited a child or another person who the person believed to be a child: (1) unless the offense was committed in a licensed house of prostitution, it is not a defense that the person did not have knowledge of the victim's age; and (2) reasonable mistake of age is not a valid defense. Section 2 also provides that in such a prosecution, the State has the burden of establishing that a person who engaged in sexual conduct with a child in a licensed house of prostitution had knowledge of the victim's age unless the person is an owner, operator, employee or contractor of the licensed house of prostitution, in which case there is a rebuttable presumption that such persons had knowledge of the victim's age.~~

~~Existing law provides that the Attorney General has concurrent jurisdiction with the district attorneys of the counties in this State to prosecute a person who commits the crimes of pandering, sex trafficking or living from the earnings of a prostitute. (NRS 201.345) Section 3 of this bill provides that the Attorney General also has such concurrent jurisdiction to prosecute a person who commits the crime of facilitating sex trafficking.~~

~~Existing law authorizes a court to impose additional fines in certain circumstances if a person is convicted of sex trafficking or living from the earnings of a prostitute. (NRS 201.352) Section 4 of this bill authorizes the imposition of such additional fines if a person is convicted of facilitating sex trafficking.~~

~~Existing law defines the term “crime related to racketeering” as the commission of, attempt to commit or conspiracy to commit certain crimes, including pandering, sex trafficking, living from the earnings of a prostitute or placing a person in a house of prostitution. (NRS 207.360) Section 6 of this bill additionally includes the crime of facilitating sex trafficking in such a definition.~~

~~Existing law provides that a person commits pandering and is guilty of a category C felony if the person, without physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution. Existing law also provides that such provisions do not apply to the customer of a prostitute. (NRS 201.300) Section 1 of this bill specifies that such provisions do not apply to the customer of a prostitute in a licensed house of prostitution unless the customer believed that the prostitute was a child.]~~

**Existing law prohibits a person from engaging in prostitution or solicitation therefor, except in a licensed house of prostitution. Existing law provides that a customer who violates such a prohibition by soliciting a child for prostitution is guilty: (1) for a first offense, of a category E felony; (2) for a second offense, of a category D felony; and (3) for a third or subsequent offense, of a category C felony. (NRS 201.354) Section 5 of this bill increases such penalties and provides that such a person is guilty: (1) for a first offense, of a category D felony; (2) for a second offense, of a category C felony; and (3) for a third or subsequent offense, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$15,000. Section 5 also provides that a person is guilty of soliciting a child for prostitution if the person solicits for prostitution: (1) a peace officer who is posing as a child; or (2) a person who is assisting a peace officer by posing as a child.**

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

**Section 1.** ~~{NRS 201.300 is hereby amended to read as follows:~~

~~201.300 1. A person who without physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or to continue to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution is guilty of pandering which is a category C felony and shall be punished as provided in NRS 193.130. This subsection does not apply to the customer of a prostitute [.] ***in a licensed house of prostitution unless the customer believed that the prostitute was a child.***~~

~~2. A person:~~

~~— (a) Is guilty of sex trafficking if the person:~~

~~— (1) Induces, causes, recruits, harbors, transports, provides, obtains or maintains a child to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution;~~

~~— (2) Induces, recruits, harbors, transports, provides, obtains or maintains a person by any means, knowing, or in reckless disregard of the fact, that threats, violence, force, intimidation, fraud, duress or coercion will be used to cause the person to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution;~~

~~— (3) By threats, violence, force, intimidation, fraud, duress, coercion, by any device or scheme, or by abuse of any position of confidence or authority, or having legal charge, takes, places, harbors, induces, causes, compels or procures a person to engage in prostitution, or to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution; or~~

~~— (4) Takes or detains a person with the intent to compel the person by force, violence, threats or duress to marry him or her or any other person.~~

~~— (b) Who is found guilty of sex trafficking [;] *a victim who is:*~~

~~— (1) An adult is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.~~

~~— (2) A child:~~

~~— (I) If the child is less than 14 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served, and may be further punished by a fine of not more than \$20,000.~~

~~— (II) If the child is at least 14 years of age but less than 16 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.~~

~~— (III) If the child is at least 16 years of age but less than 18 years of age when the offense is committed, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, and may be further punished by a fine of not more than \$10,000.~~

~~— 3. A court shall not grant probation to or suspend the sentence of a person convicted of sex trafficking a child pursuant to subsection 2.~~

~~— 4. Consent of a victim of pandering or sex trafficking to an act of prostitution is not a defense to a prosecution for any of the acts prohibited by this section.~~

~~5. In a prosecution for sex trafficking a child pursuant to subsection 2, it is not a defense that the defendant did not have knowledge of the victim's age, nor is reasonable mistake of age a valid defense to a prosecution conducted pursuant to subsection 2. (Deleted by amendment.)~~

~~Sec. 2. [NRS 201.301 is hereby amended to read as follows:~~

~~201.301 1. A person is guilty of facilitating sex trafficking if the person:~~  
~~(a) Facilitates, arranges, provides or pays for the transportation of a person to or within this State with the intent of:~~

~~(1) Inducing the person to engage in prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300;~~

~~(2) Inducing the person to enter any place within this State in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300; or~~

~~(3) If the person is a child, using the person for any act that is prohibited by NRS 200.710 or 200.720;~~

~~(b) Sells travel services that facilitate the travel of another person to this State with the knowledge that the other person is traveling to this State for the purpose of:~~

~~(1) Engaging in sexual conduct with a person who has been induced to engage in sexual conduct or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300;~~

~~(2) Soliciting a child who has been induced to engage in sexual conduct or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300; or~~

~~(3) Engaging in any act involving a child that is prohibited by NRS 200.710 or 200.720; [or]~~

~~(c) Travels to or within this State by any means with the intent of engaging in:~~

~~(1) Sexual conduct with a person who has been induced to engage in sexual conduct or prostitution in violation of subparagraph (1), (2) or (3) of paragraph (a) of subsection 2 of NRS 201.300, with the knowledge that such a person has been induced to engage in such sexual conduct or prostitution; or~~

~~(2) Any act involving a child that is prohibited by NRS 200.710 or 200.720 [.] ; or~~

~~(d) Solicits a child, or another person who the person believes to be a child, regardless of the actual age of the other person, to engage in prostitution.~~

~~2. In a prosecution for facilitating sex trafficking pursuant to paragraph (d) of subsection 1:~~

~~(a) Unless the offense was committed in a licensed house of prostitution, it is not a defense that the defendant did not have knowledge of the victim's age;~~

~~(b) Reasonable mistake of age is not a valid defense.~~

~~—(c) Except as otherwise provided in paragraph (d), the State has the burden of establishing that a person who engaged in sexual conduct with a child in a licensed house of prostitution had knowledge of the victim's age.~~

~~—(d) There is a rebuttable presumption that any owner, operator, employee or contractor of a licensed house of prostitution who engaged in sexual conduct with a child in the licensed house of prostitution had knowledge of the victim's age.~~

~~—3. A person who is found guilty of facilitating sex trafficking is guilty of a category B felony and:~~

~~—(a) If the victim is 18 years of age or older, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.~~

~~—(b) If the victim is less than 18 years of age, or if the person who is found guilty of facilitating sex trafficking believed that the victim was less than 18 years of age, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 10 years.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 201.345 is hereby amended to read as follows:~~

~~—201.345 1. The Attorney General has concurrent jurisdiction with the district attorneys of the counties in this State to prosecute any violation of NRS 201.300, 201.301 or 201.320.~~

~~—2. When acting pursuant to this section, the Attorney General may commence an investigation and file a criminal action without leave of court and the Attorney General has exclusive charge of the conduct of the prosecution.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 201.352 is hereby amended to read as follows:~~

~~—201.352 1. If a person is convicted of a violation of subsection 2 of NRS 201.300 or NRS 201.301 or 201.320, the victim of the violation is a child when the offense is committed and physical force or violence or the immediate threat of physical force or violence is used upon the child, the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than \$500,000.~~

~~—2. If a person is convicted of a violation of subsection 2 of NRS 201.300 or NRS 201.301 or 201.320, the victim of the offense is a child when the offense is committed and the offense also involves a conspiracy to commit a violation of subsection 2 of NRS 201.300 or NRS 201.301 or 201.320, the court may, in addition to the punishment prescribed by statute for the offense of a provision of subsection 2 of NRS 201.300 or NRS 201.301 or 201.320 and any fine imposed pursuant to subsection 1, impose a fine of not more than \$500,000.~~

~~—3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.] (Deleted by amendment.)~~

**Sec. 5.** NRS 201.354 is hereby amended to read as follows:

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. **Any person who violates subsection 1 by soliciting for prostitution:**

(a) **A peace officer who is posing as a child; or**

(b) **A person who is assisting a peace officer by posing as a child,**

**is guilty of soliciting a child for prostitution.**

3. A prostitute who violates subsection 1 is guilty of a misdemeanor.

~~{3}~~ 4. Except as otherwise provided in subsection ~~{5}~~ 6, a customer who violates ~~{subsection 1}~~ **this section:**

(a) For a first offense, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150, and by a fine of not less than \$400.

(b) For a second offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$800.

(c) For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$1,300.

~~{4}~~ 5. In addition to any other penalty imposed, the court shall order a person who violates subsection ~~{3}~~ 4 to pay a civil penalty of not less than \$200 per offense. The civil penalty must be paid to the district attorney or city attorney of the jurisdiction in which the violation occurred. If the civil penalty imposed pursuant to this subsection:

(a) Is not within the person's present ability to pay, in lieu of paying the penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the civil penalty.

(b) Is not entirely within the person's present ability to pay, in lieu of paying the entire civil penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the civil penalty.

~~{5}~~ 6. A customer who violates ~~{subsection 1}~~ **this section** by soliciting a child for prostitution :

(a) For a first offense, is guilty of a category ~~{E}~~ **D** felony and shall be punished as provided in NRS 193.130, and by a fine of not more than \$5,000.

(b) For a second offense, is guilty of a category ~~{D}~~ **C** felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, is guilty of a category ~~{C}~~ **B** felony and shall be punished ~~{as provided in NRS 193.130}~~ **by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$15,000.** The court shall not grant probation to or suspend the sentence of a person punished pursuant to this paragraph. ~~is guilty of facilitating sex trafficking and shall be punished as provided in NRS 201.301.~~

~~6.~~ 7. Any civil penalty collected by a district attorney or city attorney pursuant to subsection ~~4.~~ 5 must be deposited in the county or city treasury, as applicable, to be used for:

(a) The enforcement of this section; and

(b) Programs of treatment for persons who solicit prostitution which are certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

↳ Not less than 50 percent of the money deposited in the county or city treasury, as applicable, pursuant to this subsection must be used for the enforcement of this section.

~~7.~~ 8. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the person for any purpose. Discharge and dismissal under this subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

~~8.~~ 9. Except as limited by subsection ~~9.~~ 10. if a person is discharged and the proceedings against the person are dismissed pursuant to subsection ~~7.~~ 8. the court shall, without a hearing, order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

~~{9.}~~ 10. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

Sec. 6. ~~NRS 207.360 is hereby amended to read as follows:~~

~~207.360 “Crime related to racketeering” means the commission of, attempt to commit or conspiracy to commit any of the following crimes:~~

- ~~1. Murder;~~
- ~~2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;~~
- ~~3. Mayhem;~~
- ~~4. Battery which is punished as a felony;~~
- ~~5. Kidnapping;~~
- ~~6. Sexual assault;~~
- ~~7. Arson;~~
- ~~8. Robbery;~~
- ~~9. Taking property from another under circumstances not amounting to robbery;~~
- ~~10. Extortion;~~
- ~~11. Statutory sexual seduction;~~
- ~~12. Extortionate collection of debt in violation of NRS 205.322;~~
- ~~13. Forgery, including, without limitation, forgery of a credit card or debit card in violation of NRS 205.740;~~
- ~~14. Obtaining and using personal identifying information of another person in violation of NRS 205.463;~~
- ~~15. Establishing or possessing a financial forgery laboratory in violation of NRS 205.46513;~~
- ~~16. Any violation of NRS 199.280 which is punished as a felony;~~
- ~~17. Burglary;~~
- ~~18. Grand larceny;~~
- ~~19. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;~~
- ~~20. Battery with intent to commit a crime in violation of NRS 200.400;~~
- ~~21. Assault with a deadly weapon;~~
- ~~22. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, except a violation of NRS 453.3393, or NRS 453.375 to 453.401, inclusive;~~
- ~~23. Receiving or transferring a stolen vehicle;~~
- ~~24. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;~~
- ~~25. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;~~
- ~~26. Receiving, possessing or withholding stolen goods valued at \$650 or more;~~
- ~~27. Embezzlement of money or property valued at \$650 or more;~~
- ~~28. Obtaining possession of money or property valued at \$650 or more, or obtaining a signature by means of false pretenses;~~



- ~~29. Perjury or subornation of perjury;~~  
~~30. Offering false evidence;~~  
~~31. Any violation of NRS 201.300, **201.301**, 201.320 or 201.360;~~  
~~32. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;~~  
~~33. Any violation of NRS 205.506, 205.920 or 205.930;~~  
~~34. Any violation of NRS 202.445 or 202.446;~~  
~~35. Any violation of NRS 205.377;~~  
~~36. Involuntary servitude in violation of any provision of NRS 200.463 or 200.464 or a violation of any provision of NRS 200.465; or~~  
~~37. Trafficking in persons in violation of any provision of NRS 200.467 or 200.468.~~ **(Deleted by amendment.)**

Sec. 7. This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 8.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 817.

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:

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

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

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

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

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

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

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

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

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including,

without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

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

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

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

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

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

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

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

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

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

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

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

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

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

~~—(c) Abide by any curfew imposed by the parole and probation officer assigned to the sex offender.~~

~~—(d)} Participate in and complete a program of professional counseling approved by the Division ~~f~~~~

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

~~—(f) Abstain from consuming, possessing or having under the sex offender's control any alcohol or marijuana.~~

~~—(g)} , unless, before commencing a program of lifetime supervision, the sex offender previously completed a program of professional counseling recommended by the Board upon conviction of the sexual offense for which the sex offender will be placed under a program of lifetime supervision.~~

~~(b) Not use aliases or fictitious names.~~

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

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

~~—(j) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.~~

~~—(k)} (c) Not possess any sexually explicit material that is harmful to minors as defined in NRS 201.257.~~

~~{(l)} (d) Not enter, visit or patronize an establishment which offers a sexually related form of entertainment as its primary business .~~f~~~~

~~—(m) Not~~

12. If the sex offender is convicted of a sexual offense involving the use of the Internet, the Board shall require, in addition to any other condition imposed pursuant to this section, that the sex offender not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless:

~~{(1)} (a) The sex offender installs a device or subscribes to a service which enables the parole and probation officer assigned to the sex offender to regulate the sex offender's use of the Internet; and~~

~~[(2)] (b) The Board states in writing the circumstances for imposing such a condition.~~

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

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

~~12.] 13. If the sex offender is convicted of a sexual offense involving the use of alcohol, marijuana or a controlled substance, the Board shall require, in addition to any other condition imposed pursuant to this section, that the sex offender participate in and complete a program of counseling pertaining to substance abuse approved by the Division, unless, before commencing a program of lifetime supervision, the sex offender previously completed a program of counseling pertaining to substance abuse recommended by the Board upon conviction of the sexual offense for which the sex offender will be placed under a program of lifetime supervision.~~

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

~~12.] 13.] 15.~~ For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him or her pursuant to the program of lifetime supervision ~~13.]~~:

(a) *In which the violation occurred outside this State*, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, ~~13.] within or~~ outside that county or ~~13.] within or~~ outside this State ~~13.]~~; or

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

Sec. 2. The amendatory provisions of this act apply ~~13.] to a person who is placed under a program of lifetime supervision before, on or after the effective date of this act.]~~ in the following manner:

1. If a person has already commenced a program of lifetime supervision as of the effective date of this act, any applicable, additional conditions of a program of lifetime supervision added by the amendatory provisions of this act apply to the person as of January 1, 2021.

2. If a person has not yet commenced a program of lifetime supervision as of the effective date of this act, any applicable, additional

**conditions of a program of lifetime supervision added by the amendatory provisions of this act apply to the person as of January 1, 2020, or the date on which the person commences a program of lifetime supervision, whichever is later.**

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

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 86.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 845.

AN ACT relating to insurance; revising provisions governing the payment of the expenses for an examination of an insurer; eliminating certain requirements relating to reporting of closed claims for medical liability insurance; eliminating the requirement that certain expired, suspended or terminated certificates be surrendered; requiring certain insurers to file quarterly statements; eliminating certain countersignature requirements; ~~revising provisions governing the taxation of money received by a life insurer pursuant to an annuity agreement;~~ revising certain requirements for an application for a certificate of registration as an administrator; revising provisions governing annual reports filed by an administrator; revising provisions requiring an adjuster to maintain in this State a place of business; authorizing the Commissioner of Insurance to designate certain insurers as domestic surplus lines insurers; **revising provisions governing the appointment of the directors of a nonprofit organization of surplus lines brokers;** revising provisions governing fees which may be charged by certain brokers; authorizing the Commissioner to assess against an insurer the actual cost for the **external** actuarial review of a ~~proposal to change the~~ rate **filing** of a health plan; revising requirements relating to certificates of registration as a provider of service contracts; authorizing the Commissioner to issue a certificate of dormancy to certain captive insurers; revising provisions governing state-chartered risk retention groups for consistency with the accreditation standards of the National Association of Insurance Commissioners; revising provisions governing the suspension or revocation of a license of a captive insurer; revising certain requirements relating to certain financial transactions by a captive insurer; establishing or revising minimum capital requirements for certain insurers; making certain provisions governing rates and service organizations and portability and accountability of certain health benefit plans applicable to health maintenance organizations; revising provisions governing insurers in receivership; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Commissioner of Insurance to examine insurers and certain other persons to ensure compliance with the provisions of the Nevada Insurance Code (Title 57 of NRS). (NRS 679B.230, 679B.240) Existing law provides that the person examined shall, upon presentation of a bill by the Commissioner, pay to the Commissioner the expenses of the examiner and assistants of the Commissioner, including reasonable and proper hotel and travel expenses, expert assistance, reasonable compensation of the examiners and assistants and necessary incidental expenses. (NRS 679B.290) **Sections 1, 57 and 62** of this bill revise the types of expenses which may be collected from examinees and their method of collection and eliminate assistants of the Commissioner as persons whose expenses may be paid by examinees.

Existing law requires insurers providing medical liability insurance to physicians and osteopathic physicians to report to the Division of Insurance certain information regarding closed claims. (NRS 630.130, 630.3069, 630.318, 633.286, 633.528, 633.529, 679B.144, 679B.440, 679B.460, 690B.260, 690B.360) **Sections 2, 3, 33 and 71-77** of this bill eliminate those reporting requirements.

**Section 3.5 of this bill increases the annual assessment that the Commissioner is required to collect from each insurer authorized to transact insurance in this State.**

Existing law requires certain certificates of licensure, authority or registration which are issued by the Commissioner to be surrendered or delivered to the Commissioner upon expiration, suspension or termination thereof. (NRS 680A.160, 683A.08526, 683A.480, 684A.210, 684A.220, 684B.110, 684B.120, 685A.220, 686A.520, 689.160, 689.595, 695J.260, 696A.330, 697.360) **Sections 4, 13, 17-20, 27, 28, 30, 31, 64, 70 and 78** of this bill eliminate the requirement that such certificates be surrendered or delivered.

Existing law requires certain insurers to file certain annual reports and financial statements with the Commissioner of Insurance. (NRS 680A.270, 680A.280, 690B.150, 695B.160, 695C.210, 695D.260, 695F.320) **Sections 5, 6, 32, 53, 56, 59 and 63** of this bill require certain insurers to also file quarterly statements with the Commissioner and the National Association of Insurance Commissioners.

In 2009, the Legislature eliminated certain countersignature provisions which the 9th Circuit Court of Appeals had found to be unconstitutional in discriminating against Nevada nonresident producers of insurance by denying them the same rights and privileges as resident producers. (*Council of Ins. Agents & Brokers v. Molasky-Arman*, 522 F.3d 925 (9th Cir. 2008); NRS 680A.300, 680A.310) **Sections 7 and 78** of this bill eliminate certain remaining countersignature requirements and references thereto.

~~Existing law provides that money accepted by a life insurer pursuant to an annuity agreement may be considered income and taxable either upon receipt~~

~~or at the time the money is applied to purchase annuities. (NRS 680B.025) Section 8 of this bill provides that, for such an agreement which is issued on or after January 1, 2020, the money is considered income and taxable upon receipt.]~~

**Section 10** of this bill revises the applicability of specified limitations on an insurer's investment in certain types of real estate.

Existing law requires an application for a certificate of registration as an administrator to be accompanied by a financial statement which includes an income statement and balance sheet. (NRS 683A.08522) **Section 11** of this bill requires the financial statement, income statement and balance sheet to have been reviewed by an independent certified public accountant.

Existing law requires the Commissioner to submit certain information supplied by an applicant for a certificate of registration as an administrator to the Division of Industrial Relations of the Department of Business and Industry for final approval. (NRS 683A.08524) **Section 12** of this bill requires the Commissioner to submit the information to the Division only if the applicant seeks final approval by the Division in accordance with regulations governing industrial insurance as adopted by the Administrator of the Division.

Existing law requires an administrator who files an annual report which contains certain financial statements and other information to pay a filing fee in an amount determined by the Commissioner. Existing law also requires the Commissioner, after reviewing the annual report and accompanying financial statement, to identify any deficiency found in the annual report or submit certain information to an electronic database maintained by the National Association of Insurance Commissioners or its affiliate or subsidiary. (NRS 683A.08528) **Section 14** of this bill eliminates these requirements.

Existing law requires every adjuster to have and maintain in this State a place of business. (NRS 684A.170) **Section 15** of this bill limits this requirement to adjusters who are residents of this State.

Existing law requires an adjuster to retain records of all transactions under his or her license for at least 3 years. (NRS 684A.180) **Section 16** of this bill revises this period of retention to at least 3 years after the closure of the claim to which the records apply.

**Sections 21-26** of this bill: (1) authorize the Commissioner to designate an insurer which is domiciled in this State and meets certain requirements as a domestic surplus lines insurer; and (2) establish certain requirements and limitations on the transaction of the business of insurance by and with, a domestic surplus lines insurer.

**Existing law provides that the members of the board of directors of a nonprofit organization of surplus lines brokers must be appointed by the Commissioner and serve at the pleasure of the Commissioner. (NRS 685A.075) Section 26.3 of this bill provides that: (1) the directors must be appointed in accordance with the bylaws of the organization; and (2) any**



**proposed director may be disapproved by the Commissioner and serves at the pleasure of the Commissioner.**

Existing law: (1) authorizes a broker who places any insurance coverage which the Commissioner has made available for export to charge a fee for procuring surplus lines coverage; and (2) except under certain circumstances, prohibits that fee from exceeding 20 percent of the premium charged, after deducting any other commissions, fees and charges payable to the broker. (NRS 685A.155) **Section 26.5** of this bill revises these provisions to: (1) provide that the fee is authorized to be charged by the licensed surplus lines broker who is first engaged by or on behalf of an applicant for insurance; and (2) clarify the calculation of the limit on the amount of the fee charged.

Existing law requires the Commissioner to consider each proposed increase or decrease in the rate of a health plan. (NRS 686B.112) **Section 29** of this bill: (1) requires the Commissioner to perform an actuarial review of ~~the proposal to increase or decrease a~~ **each rate filing;** and (2) authorizes the Commissioner to assess against an insurer the actual cost for the **external** actuarial review of such a ~~proposal to increase or decrease a rate.~~ **filing.**

Existing law establishes the requirements for the application for, and issuance and renewal of, a certificate of registration as a provider of service contracts. (NRS 690C.160) **Section 34** of this bill: (1) increases from \$1,000 to \$2,000 the fee that must be paid at the time of application; (2) increases the term of a certificate of registration from 1 year to 2 years; (3) increases the fee for the renewal of a certificate from \$1,000 to \$2,000; and (4) requires a provider to submit his or her application and fee for renewal not later than 60 days before his or her certificate expires.

**Sections 36 and 37** of this bill authorize the Commissioner to issue a certificate of dormancy to a captive insurer which elects to cease transacting the business of insurance and complies with certain requirements and conditions.

**Sections 39-44, 46 and 49-51** of this bill revise provisions governing captive insurers to distinguish between association captive insurers and state-chartered risk retention groups for consistency with the accreditation standards of the National Association of Insurance Commissioners.

Existing law authorizes the Commissioner to suspend or revoke the license of a captive insurer after an examination and hearing if the Commissioner makes certain determinations. (NRS 694C.270) **Section 45** of this bill eliminates the requirement for an examination and clarifies that failure to pay required taxes on premiums is one of the grounds on which a license may be suspended or revoked.

Existing law prohibits a captive insurer from transacting insurance in this State unless the captive insurer has made adequate arrangements with a bank located in this State. (NRS 694C.310) **Section 47** of this bill revises this provision to include a state-chartered bank, state-chartered credit union or state-licensed thrift company that is located in this State and a federally chartered bank that has a branch that is located in this State.

Existing law prohibits a captive insurer from paying certain dividends or certain other distributions unless the captive insurer has obtained the prior approval of the Commissioner. (NRS 694C.330) **Section 48** of this bill requires the prior approval of the Commissioner for: (1) a captive insurer other than a state-chartered risk retention group to pay only certain extraordinary dividends or certain other extraordinary distributions; and (2) a state-chartered risk retention group to pay any dividends or distributions.

**Sections 52, 54, 58 and 61** of this bill: (1) establish minimum capital requirements for nonprofit corporations for hospital, medical and dental services, health maintenance organizations, organizations that provide plans for dental care; and (2) revise such requirements for prepaid limited health service organizations.

**Section 55** of this bill provides that provisions governing rates and service organizations apply to health maintenance organizations.

**Section 55.5** of this bill provides that provisions governing portability and accountability of individual health benefit plans apply to health maintenance organizations.

**Sections 66-69** of this bill: (1) require the receiver of an insurer in receivership and each guaranty association which is affected by the delinquency proceedings to file certain financial reports as established or specified by the National Association of Insurance Commissioners; and (2) revise provisions to include references to the Insurer Receivership Model Act adopted by the National Association of Insurance Commissioners.

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

**Section 1.** NRS 679B.290 is hereby amended to read as follows:

679B.290 1. Except as otherwise provided in subsection 2:

(a) The expense of examination of an insurer, or of any person referred to in subsection 1, 2, 5 or 6 of NRS 679B.240, must be borne by the person examined. Such expense includes only the reasonable ~~and proper hotel and travel expenses~~ **compensation and per diem allowance** of the ~~Commissioner and the~~ examiners ~~and assistants~~ of the Commissioner, including expert assistance, ~~reasonable compensation as to such examiners and assistants~~ and incidental expenses as necessarily incurred in the examination. As to expense ~~and compensation~~ involved in any such examination, the Commissioner shall give due consideration to scales and limitations recommended by the National Association of Insurance Commissioners and outlined in the examination manual sponsored by that association.

(b) The person examined shall promptly pay ~~to the Commissioner~~ the expenses of the examination upon presentation by the Commissioner of a reasonably detailed written statement thereof.

2. The Commissioner may bill an insurer for the examination of any person referred to in subsection 1 of NRS 679B.240 and shall adopt regulations governing such billings.

**Sec. 2.** NRS 679B.440 is hereby amended to read as follows:

679B.440 1. The Commissioner may require that reports submitted pursuant to NRS 679B.430 include, without limitation, information regarding:

(a) Liability insurance provided to:

(1) Governmental agencies and political subdivisions of this State, reported separately for:

- (I) Cities and towns;
- (II) School districts; and
- (III) Other political subdivisions;

(2) Public officers;

(3) Establishments where alcoholic beverages are sold;

(4) Facilities for the care of children;

(5) Labor, fraternal or religious organizations; and

(6) Officers or directors of organizations formed pursuant to title 7 of NRS, reported separately for nonprofit entities and entities organized for profit;

(b) Liability insurance for:

(1) Defective products;

(2) Medical or dental malpractice of:

(I) A practitioner licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639 or 640 of NRS;

(II) A hospital or other health care facility; or

(III) Any related corporate entity.

(3) Malpractice of attorneys;

(4) Malpractice of architects and engineers; and

(5) Errors and omissions by other professionally qualified persons;

(c) Vehicle insurance, reported separately for:

(1) Private vehicles;

(2) Commercial vehicles;

(3) Liability insurance; and

(4) Insurance for property damage; *and*

(d) Workers' compensation insurance. ~~}; and~~

~~—(e) In addition to any information provided pursuant to subparagraph (2) of paragraph (b) or NRS 690B.260, a policy of insurance for medical malpractice. As used in this paragraph, "policy of insurance for medical malpractice" has the meaning ascribed to it in NRS 679B.144.]~~

2. The Commissioner may require that the report include, without limitation, information specifically pertaining to this State or to an insurer in its entirety, in the aggregate or by type of insurance, and for a previous or current year, regarding:

(a) Premiums directly written;

(b) Premiums directly earned;

(c) Number of policies issued;

(d) Net investment income, using appropriate estimates when necessary;

(e) Losses paid;

- (f) Losses incurred;
  - (g) Loss reserves, including:
    - (1) Losses unpaid on reported claims; and
    - (2) Losses unpaid on incurred but not reported claims;
  - (h) Number of claims, including:
    - (1) Claims paid; and
    - (2) Claims that have arisen but are unpaid;
  - (i) Expenses for adjustment of losses, including allocated and unallocated losses;
  - (j) Net underwriting gain or loss;
  - (k) Net operation gain or loss, including net investment income; and
  - (l) Any other information requested by the Commissioner.
3. The Commissioner may also obtain, based upon an insurer in its entirety, information regarding:
- (a) Recoverable federal income tax;
  - (b) Net unrealized capital gain or loss; and
  - (c) All other expenses not included in subsection 2.

**Sec. 3.** NRS 679B.460 is hereby amended to read as follows:

679B.460 1. An insurer who willfully or repeatedly violates or fails to comply with a provision of NRS 679B.400 to 679B.440, inclusive, ~~for 690B.260~~ or a regulation adopted pursuant to NRS 679B.430 is subject, after notice and a hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, to payment of an administrative fine of not more than \$1,000 for each day of the violation or failure to comply, up to a maximum fine of \$50,000.

2. An insurer who fails or refuses to comply with an order issued by the Commissioner pursuant to NRS 679B.430 is subject, after notice and a hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, to suspension or revocation of the insurer's certificate of authority to transact insurance in this state.

3. The imposition of an administrative fine pursuant to this section must not be considered by the Commissioner in any other administrative proceeding unless the fine has been paid or a court order for payment of the fine has become final.

**Sec. 3.5. NRS 679B.700 is hereby amended to read as follows:**

679B.700 1. The Special Investigative Account is hereby established in the Fund for Insurance Administration and Enforcement created by NRS 680C.100 for use by the Commissioner. The Commissioner shall deposit all money received pursuant to this section with the State Treasurer for credit to the Account. Money remaining in the Account at the end of a fiscal year does not lapse to the State General Fund and may be used by the Commissioner in any subsequent fiscal year for the purposes of this section.

2. The Commissioner shall:

- (a) In cooperation with the Attorney General, biennially prepare and submit to the Governor, for inclusion in the executive budget, a proposed budget for the program established pursuant to NRS 679B.630; and

(b) Authorize expenditures from the Special Investigative Account to pay the expenses of the program established pursuant to NRS 679B.630 and of any unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

3. The money authorized for expenditure pursuant to paragraph (b) of subsection 2 must be distributed in the following manner:

(a) Fifteen percent of the money authorized for expenditure must be paid to the Commissioner to oversee and enforce the program established pursuant to NRS 679B.630; and

(b) Eighty-five percent of the money authorized for expenditure must be paid to the Attorney General to pay the expenses of the unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

4. Except as otherwise provided in subsection 5, costs of the program established pursuant to NRS 679B.630 must be paid by the insurers authorized to transact insurance in this State. The Commissioner shall collect an annual assessment from each insurer authorized to transact insurance in this State. The annual amount so assessed to each insurer:

(a) Is ~~1,500~~ 1,000, if the total amount of the premiums charged to insureds in this State by the insurer is less than \$100,000 or if the insurer is a reinsurer that has the authority to assume only reinsurance;

(b) Is ~~1,750~~ 1,500, if the total amount of the premiums charged to insureds in this State by the insurer is \$100,000 or more, but less than \$1,000,000;

(c) Is ~~1,000~~ 2,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$1,000,000 or more, but less than \$10,000,000;

(d) Is ~~1,500~~ 3,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$10,000,000 or more, but less than \$50,000,000; and

(e) Is ~~2,000~~ 4,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$50,000,000 or more.

5. The provisions of this section do not apply to an insurer who provides only workers' compensation insurance and pays the assessment provided in NRS 232.680.

6. The Commissioner shall adopt regulations to carry out the provisions of this section, including, without limitation, the collection of the assessment.

7. As used in this section, "reinsurer" has the meaning ascribed to it in NRS 681A.370.

**Sec. 4.** NRS 680A.160 is hereby amended to read as follows:

680A.160 1. If upon completion of its application the Commissioner finds that the insurer has met the requirements therefor under this Code, the Commissioner may issue to the insurer a proper certificate of authority; if the Commissioner does not so find, the Commissioner shall issue an order refusing such certificate.

2. The certificate, if issued, shall state the insurer's name, home office address, state or country of organization, and the kinds of insurance the insurer is authorized to transact throughout Nevada. At the insurer's request, the Commissioner may issue a certificate of authority limited to particular types of insurance or coverages within a kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive (kinds of insurance).

3. Although issued and delivered to the insurer, the certificate of authority at all times shall be the property of the State of Nevada. ~~Upon any expiration, suspension or termination thereof the insurer shall promptly deliver the certificate to the Commissioner.~~

**Sec. 5.** NRS 680A.270 is hereby amended to read as follows:

680A.270 1. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the Commissioner for good cause may have granted on or before that date, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement must be:

(a) In the general form and context of, and require information as called for by, an annual statement as is currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof, supplemented by additional information required by the Commissioner;

(b) Prepared in accordance with:

(1) The Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement; and

(2) The Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(c) Verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable, or, in the absence of the foregoing, by two other principal officers, or if a reciprocal insurer, by the oath of the attorney-in-fact, or its like officers if a corporation.

2. The statement of an alien insurer must be verified by its United States manager or other officer who is authorized to do so, and may relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to the insurer's affairs throughout the world, the insurer shall file the statement with the Commissioner as soon as reasonably possible.

3. The Commissioner may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

4. At the time of filing ~~it~~ *its annual statement with the Commissioner*, the insurer shall pay the fee for filing its annual statement as prescribed by NRS 680B.010.

5. *Each domestic insurer shall file with the Commissioner and the National Association of Insurance Commissioners a quarterly statement in the form most recently adopted by the National Association of Insurance Commissioners for that type of insurer. The quarterly statement must be:*

(a) *Prepared in accordance with the instructions which are applicable to that form, including, without limitation, the required date of submission for the form; and*

(b) *Filed by electronic means.*

6. The Commissioner may adopt regulations requiring each domestic, foreign and alien insurer which is authorized to transact insurance in this state to file the insurer's annual statement with the National Association of Insurance Commissioners or its successor organization.

~~{6.}~~ 7. Except as otherwise provided in NRS 239.0115, all work papers, documents and materials prepared pursuant to this section by or on behalf of the Division are confidential and must not be disclosed by the Division.

~~{7.}~~ 8. To the extent that the Annual Statement Instructions referenced in subparagraph (1) of paragraph (b) of subsection 1 *or the instructions for the preparation of quarterly statements referenced in paragraph (a) of subsection 5* require the disclosure of compensation paid to or on behalf of an insurer's officers, directors or employees, the information may be filed with the Commissioner *and the National Association of Insurance Commissioners* as ~~{an exhibit}~~ *exhibits* separate from the ~~{statement}~~ *annual and quarterly statements* required by this section. Except as otherwise provided in NRS 239.0115, the compensation information described in this subsection is confidential and must not be disclosed by the Division.

**Sec. 6.** NRS 680A.280 is hereby amended to read as follows:

680A.280 1. Any insurer failing, without just cause beyond the reasonable control of the insurer, to file ~~{an annual}~~ *a* statement as required in NRS 680A.265 and 680A.270 shall be required to pay a penalty of \$100 for each day's delay, but not to exceed \$3,000 in aggregate amount, to be recovered in the name of the State of Nevada by the Attorney General.

2. Any director, officer, agent or employee of any insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

**Sec. 7.** NRS 680A.300 is hereby amended to read as follows:

680A.300 1. ~~{Except as provided in NRS 680A.310, no}~~ *No* authorized insurer may make, write, place, renew or cause to be made, placed or renewed, any policy or duplicate policy, endorsement or contract of insurance of any kind upon persons, property or risks resident, located or to be performed in this State, except through its duly appointed and licensed agents . ~~{any one of whom shall countersign the policy, endorsement or contract.}~~

2. ~~{Where two or more insurers jointly issue a single policy, the policy may be countersigned, on behalf of all insurers appearing thereon, by a duly appointed and licensed agent of any one insurer.}~~

~~—3.] In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. [The bond must subsequently be countersigned by a commissioned agent who is authorized to execute the bond.] The commissioned agent who executes the bond shall make and retain an adequate office record of the transaction.~~

~~[4.—An insurer may use an endorsement to the policy for the sole purpose of countersigning the policy, as required in this section, only if:~~

~~—(a) The endorsement is attached to the policy to which it applies; and~~

~~—(b) The policy insures persons or property in this State and one or more other states.]~~

**Sec. 8.** ~~[NRS 680B.025 is hereby amended to read as follows:~~

~~680B.025 For the purposes of NRS 680B.025 to 680B.030, inclusive:~~

~~1. “Total income derived from direct premiums written”:~~

~~—(a) Does not include premiums written or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a pension, annuity or profit sharing plan qualified or exempt pursuant to sections 401, 403, 404, 408, 457 or 501 of the United States Internal Revenue Code as renumbered from time to time.~~

~~—(b) Does not include payments received by an insurer from the Secretary of Health and Human Services pursuant to a contract entered into pursuant to section 1876 of the Social Security Act, 42 U.S.C. § 1395mm.~~

~~—(c) As to title insurance, consists of the total amount charged by the company for the sale of policies of title insurance.~~

~~2. Money accepted by a life insurer pursuant to an agreement which provides for an accumulation of money to purchase annuities at future dates [may] shall be considered as “total income derived from direct premiums written” [either]:~~

~~—(a) For such an agreement which is issued before January 1, 2020, either upon receipt or upon the actual application of the money to the purchase of annuities, but any interest credited to money accumulated while under the latter alternative must also be included in “total income derived from direct premiums written,” and any money taxed upon receipt, including any interest later credited thereto, is not subject to taxation upon the purchase of annuities. Each life insurer shall signify on its return covering premiums for the calendar year 1971 or for the first calendar year it transacts business in this State, whichever is later, its election between those two alternatives. Thereafter an insurer shall not change his or her election without the consent of the Commissioner.~~

~~—(b) For such an agreement which is issued on or after January 1, 2020, upon receipt:~~

~~Any such money taxed as “total income derived from direct premiums written” is, in the event of withdrawal of the money before its actual~~



~~application to the purchase of annuities, eligible to be included as "return premiums" pursuant to the provisions of NRS 680B.030.~~ **(Deleted by amendment.)**

**Sec. 9.** NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) Except as otherwise provided in NRS 680A.180, 683A.378, 686A.380, **690C.160**, 694C.230, 695A.080, 695B.135, 695D.150, 695H.090 and 696A.150, if an annual fee, paid on or before the date established by regulation of the Commissioner;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee..... \$1,300

(2) Annual fee..... \$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee..... \$1,300

(2) Annual fee..... \$1,300

(c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:

(1) Initial fee..... \$60

(2) Annual fee..... \$60

(d) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee..... \$60

(2) Triennial fee..... \$60

(e) Reinsurers, as provided for in NRS 681A.1551 or 681A.160, as applicable:

(1) Initial fee..... \$1,300

(2) Annual fee..... \$1,300

(f) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee..... \$60

(2) Triennial fee..... \$60

(g) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee.....	\$1,300
(2) Annual fee.....	\$1,300
(h) Administrators, as defined in NRS 683A.025:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(i) Managing general agents, as defined in NRS 683A.060:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(j) Agents who perform utilization reviews, as defined in NRS 683A.376:	
(1) Initial fee.....	\$60
(2) Annual fee.....	\$60
(k) Insurance consultants, as defined in NRS 683C.010:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(l) Independent adjusters, as defined in NRS 684A.030:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(m) Public adjusters, as defined in NRS 684A.030:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(n) Associate adjusters, as defined in NRS 684A.030:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(o) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(p) Brokers, as defined in NRS 685A.031:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(q) Companies, as defined in NRS 686A.330:	
(1) Initial fee.....	\$1,300
(2) Annual fee.....	\$1,300
(r) Rate service organizations, as defined in NRS 686B.020:	
(1) Initial fee.....	\$1,300
(2) Annual fee.....	\$1,300
(s) Brokers of viatical settlements, as defined in NRS 688C.030:	
(1) Initial fee.....	\$60
(2) Annual fee.....	\$60
(t) Providers of viatical settlements, as defined in NRS 688C.080:	
(1) Initial fee.....	\$60
(2) Annual fee.....	\$60

(u) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(v) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(w) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(x) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(y) Providers, as defined in NRS 690C.070:	
(1) Initial fee.....	\$1,300
(2) Annual fee.....	\$1,300
(z) Escrow officers, as defined in NRS 692A.028:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(aa) Title agents, as defined in NRS 692A.060:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(bb) Captive insurers, as defined in NRS 694C.060:	
(1) Initial fee.....	\$250
(2) Annual fee.....	\$250
(cc) Insurance agents for societies, as provided for in NRS 695A.330:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(dd) Purchasing groups, as defined in NRS 695E.100:	
(1) Initial fee.....	\$250
(2) Annual fee.....	\$250
(ee) Risk retention groups, as defined in NRS 695E.110:	
(1) Initial fee.....	\$250
(2) Annual fee.....	\$250
(ff) Medical discount plans, as defined in NRS 695H.050:	
(1) Initial fee.....	\$1,300
(2) Annual fee.....	\$1,300
(gg) Club agents, as defined in NRS 696A.040:	
(1) Initial fee.....	\$60
(2) Triennial fee.....	\$60
(hh) Motor clubs, as defined in NRS 696A.050:	

- (1) Initial fee..... \$1,300
- (2) Annual fee..... \$1,300
- (ii) Bail agents, as defined in NRS 697.040:
  - (1) Initial fee..... \$60
  - (2) Triennial fee..... \$60
- (jj) Bail enforcement agents, as defined in NRS 697.055:
  - (1) Initial fee..... \$60
  - (2) Triennial fee..... \$60
- (kk) Bail solicitors, as defined in NRS 697.060:
  - (1) Initial fee..... \$60
  - (2) Triennial fee..... \$60
- (ll) General agents, as defined in NRS 697.070:
  - (1) Initial fee..... \$60
  - (2) Triennial fee..... \$60
- (mm) Exchange enrollment facilitators, as defined in NRS 695J.050:
  - (1) Initial fee..... \$60
  - (2) Triennial fee..... \$60
- 5. An initial fee of \$1,000 must be paid to the Commissioner by each:
  - (a) Insurer who is authorized to transact casualty insurance, as defined in NRS 681A.020;
  - (b) Insurer who is authorized to transact health insurance, as defined in NRS 681A.030;
  - (c) Insurer who is authorized to transact life insurance, as defined in NRS 681A.040;
  - (d) Insurer who is authorized to transact property insurance, as defined in NRS 681A.060;
  - (e) Title insurer, as defined in NRS 692A.070;
  - (f) Fraternal benefit society, as defined in NRS 695A.010;
  - (g) Corporation subject to the provisions of chapter 695B of NRS;
  - (h) Health maintenance organization, as defined in NRS 695C.030;
  - (i) Organization for dental care, as defined in NRS 695D.060; and
  - (j) Prepaid limited health service organization, as defined in NRS 695F.050.
- 6. An insurer who is required to pay an initial fee of \$1,000 pursuant to subsection 5 shall also pay to the Commissioner an annual fee in an amount determined by the Commissioner. When determining the amount of the annual fee, the Commissioner must consider:
  - (a) The direct written premiums reported to the Commissioner by the insurer during the previous year;
  - (b) The number of insurers who are required to pay an annual fee pursuant to this subsection;
  - (c) The direct written premiums reported during the previous year by all insurers paying such fees; and
  - (d) The budget of the Division.

7. An insurer who is not required to pay an initial or annual fee pursuant to subsection 4 or subsections 5 and 6 shall pay to the Commissioner an initial fee of \$1,300 and an annual fee of \$1,300.

**Sec. 10.** NRS 682A.436 is hereby amended to read as follows:

682A.436 1. An insurer shall not acquire an investment in accordance with the provisions of NRS 682A.430 if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer pursuant to that section would exceed:

(a) One percent of its admitted assets in mortgage loans covering any one secured location;

(b) One-quarter of one percent of its admitted assets in construction loans covering any one secured location; or

(c) Two percent of its admitted assets in construction loans in the aggregate.

2. An insurer shall not acquire an investment under NRS 682A.432 if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments held by the insurer under NRS 682A.432 plus the guarantees outstanding would exceed:

(a) One percent of its admitted assets in one parcel or group of contiguous parcels of real estate, except that this limitation does not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings or other health facilities used for the purpose of providing health services; or

(b) Fifteen percent of its admitted assets in the aggregate, but not more than 5 percent of its admitted assets as to properties that are to be improved or developed.

3. An insurer shall not acquire an investment pursuant to NRS 682A.430 or 682A.432 if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments held by the insurer in accordance with those sections plus the guarantees outstanding would exceed 45 percent of the insurer's admitted assets. An insurer may exceed this limitation by not more than 30 percent of the insurer's admitted assets if:

(a) This increased amount is invested only in residential mortgage loans;

(b) The insurer has not more than 10 percent of the insurer's admitted assets invested in mortgage loans other than residential mortgage loans;

(c) The loan-to-value ratio of each residential mortgage loan does not exceed 60 percent at the time the mortgage loan is qualified pursuant to this increased authority, and the fair market value is supported by an appraisal that is not more than 2 years old and prepared by an independent appraiser;

(d) A single mortgage loan qualified pursuant to this increased authority does not exceed 0.5 percent of the insurer's admitted assets;

(e) The insurer files with the Commissioner, and receives approval from the Commissioner for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and

(f) The insurer agrees to file annually with the Commissioner records which demonstrate that the insurer's portfolio of residential mortgage loans is geographically diversified in accordance with the plan.

4. The limitations of NRS 682A.402, 682A.404 and 682A.406 do not apply to an insurer's acquisition of real estate under NRS ~~682A.432~~ **682A.434**. An insurer shall not acquire real estate under NRS ~~682A.432~~ **682A.434** if, as a result of and after giving effect to the acquisition, the aggregate amount of real estate held by the insurer in accordance with that section would exceed 10 percent of its admitted assets. With the approval of the Commissioner, additional amounts of real estate may be acquired under NRS ~~682A.432~~ **682A.434**.

**Sec. 11.** NRS 683A.08522 is hereby amended to read as follows:

683A.08522 Each application for a certificate of registration as an administrator must include or be accompanied by:

1. A financial statement ~~that is certified by an officer~~ of the applicant **that has been reviewed by an independent certified public accountant** and ~~must include~~ **which includes:**

(a) ~~The~~ **A statement regarding the** amount of money that the applicant expects to collect from or disburse to residents of this state during the next calendar year. ~~;~~

(b) Financial information for the 90 days immediately preceding the date the application was filed with the Commissioner. ~~;~~ **and**

(c) An income statement and balance sheet for the 2 years immediately preceding the application that are ~~prepared~~ :

(1) **Prepared** in accordance with generally accepted accounting principles ~~[-The submission by the applicant of his or her consolidated income statement and balance sheet does not constitute compliance with the provisions of this paragraph.] ; and~~

(2) **Reviewed by an independent certified public accountant.**

(d) **A certification of the financial statement by an officer of the applicant.**

2. The documents used to create the business association of the administrator, including articles of incorporation, articles of association, a partnership agreement, a trust agreement and a shareholders' agreement.

3. The documents used to regulate the internal affairs of the administrator, including the bylaws, rules or regulations of the administrator.

4. A certificate of registration issued pursuant to NRS 600.350 for a trade name or trademark used by the administrator ~~;~~ **, if applicable.**

5. An organizational chart that identifies each person who directly or indirectly controls the administrator and each affiliate of the administrator.

6. A notarized affidavit from each person who manages or controls the administrator, including each member of the board of directors or board of trustees, each officer, partner and member of the business association of the

administrator, and each shareholder of the administrator who holds not less than 10 percent of the voting stock of the administrator. The affidavit must include:

(a) The personal history, business record and insurance experience of the affiant;

(b) Whether the affiant has been investigated by any regulatory authority or has had any license or certificate denied, suspended or revoked in any state; and

(c) Any other information that the Commissioner may require.

7. The complete name and address of each office of the administrator, including offices located outside this state.

8. A statement that sets forth whether the administrator has:

(a) Held a license or certificate to transact any kind of insurance in this state or any other state and whether that license or certificate has been refused, suspended or revoked;

(b) Been indebted to any person and, if so, the circumstances of that debt; and

(c) Had an administrative agreement cancelled and, if so, the circumstances of that cancellation.

9. A statement that describes the business plan of the administrator. The statement must include information:

(a) Concerning the number of persons on the staff of the administrator and the activities proposed in this state or in any other state.

(b) That demonstrates the capability of the administrator to provide a sufficient number of experienced and qualified persons for the processing of claims, the keeping of records and, if applicable, underwriting.

10. If the applicant intends to solicit new or renewal business, proof that the applicant employs or has contracted with a producer of insurance licensed in this state to solicit and take applications. An applicant who intends to solicit insurance contracts directly or to act as a producer must provide proof that the applicant is licensed as a producer in this state.

**Sec. 12.** NRS 683A.08524 is hereby amended to read as follows:

683A.08524 1. Except as otherwise provided in subsection 2 or 3, the Commissioner shall issue a certificate of registration as an administrator to an applicant who:

(a) Submits an application on a form prescribed by the Commissioner;

(b) Has complied with the provisions of NRS 683A.08522; and

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

- (b) Is not trustworthy or financially responsible;
- (c) Does not have a good personal or business reputation;
- (d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state;
- (e) Has failed to comply with any provision of this chapter; or
- (f) Is financially unsound.

3. ~~The Commissioner shall submit the information supplied by an applicant pursuant to subsection 1 to~~ ***If an applicant seeks final approval by the Division of Industrial Relations of the Department of Business and Industry for final approval*** in accordance with ~~the~~ regulations adopted pursuant to subsection 8 of NRS 616A.400 ~~+~~, ***the Commissioner shall submit to the Division the information supplied by the applicant pursuant to subsection 1.*** Unless the Division provides final approval for the applicant to the Commissioner, the Commissioner shall not issue a certificate of registration as an administrator to the applicant.

**Sec. 13.** NRS 683A.08526 is hereby amended to read as follows:

683A.08526 1. A certificate of registration as an administrator is valid for 3 years after the date the Commissioner issues the certificate to the administrator.

2. An administrator may renew a certificate of registration if the administrator submits to the Commissioner:

- (a) An application on a form prescribed by the Commissioner; and
- (b) The fee for the renewal of the certificate of registration prescribed in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

~~3. A certificate of registration that is suspended or revoked must be surrendered immediately to the Commissioner.~~

**Sec. 14.** NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than 90 days after the expiration of the fiscal year of the administrator, or within such other period as the Commissioner may allow, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for that fiscal year. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) A financial statement of the administrator that has been reviewed by an independent certified public accountant.

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the fiscal year.

(c) A statement regarding the total money handled by the administrator on behalf of contracted entities in connection with his or her activities as an administrator. The statement must be on a form prescribed or approved by the Commissioner for the purpose of calculating the amount of the bond required by NRS 683A.0857.

(d) Any other information required by the Commissioner.



3. Except as otherwise provided in subsection 4, in addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include supplemental exhibits that:

- (a) Have been reviewed by an independent certified public accountant; and
- (b) Include a balance sheet and income statement for each holder of a certificate of registration as an administrator in this State.

4. In lieu of complying with the requirements set forth in paragraphs (a) and (b) of subsection 3, an administrator who is a wholly owned subsidiary of a parent company may submit to the Commissioner:

- (a) The financial statement of the parent company that has been audited by an independent certified public accountant; and
- (b) A parental guaranty that is signed by an officer of the parent company and which guarantees the financial solvency of the administrator.

5. ~~Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.~~

~~6. The Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall~~

~~(a) Issue~~ *issue* a certificate to the administrator ~~that~~

~~(1) Indicating~~ *indicating* that, based on the annual report and accompanying financial statement, the administrator ~~has a positive net worth and~~ is currently licensed and in good standing in this State. ~~;~~ ~~or~~

~~(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or~~

~~(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:~~

~~(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or~~

~~(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.~~

**Sec. 15.** NRS 684A.170 is hereby amended to read as follows:

684A.170 1. Every adjuster *who is a resident of this State* shall have and maintain in this state a place of business accessible to the public and from which the licensee principally conducts transactions under his or her license. The address of such place shall appear upon the application for a license and upon the license, when issued, and the licensee shall promptly notify the Commissioner in writing of any change thereof. Nothing in this section shall prohibit the maintenance of such place in the licensee's residence in this state.

2. The license of the licensee and those of associate adjusters employed by the licensee shall be conspicuously displayed in such place of business in a part thereof customarily open to the public.

**Sec. 16.** NRS 684A.180 is hereby amended to read as follows:

684A.180 1. Each adjuster shall keep at his or her business address shown on the adjuster's license a record of all transactions under the license.

2. The record shall include:

(a) A copy of each contract between an independent adjuster and an insurer or self-insurer.

(b) A copy of all investigations or adjustments undertaken.

(c) A statement of any fee, commission or other compensation received or to be received by the adjuster on account of such investigation or adjustment.

3. The adjuster shall make such records available for examination by the Commissioner at all times, and shall retain the records for at least 3 years ~~+~~ **after the closure of the claim to which the records apply.**

4. An independent adjuster shall comply with any record retention policy agreed to in a contract between the independent adjuster and an insurer or self-insurer to the extent that such a policy imposes a requirement to retain records for a longer period than the period required by this section.

**Sec. 17.** NRS 684A.210 is hereby amended to read as follows:

684A.210 1. The Commissioner may suspend, revoke, limit or refuse to continue any adjuster's license or associate adjuster's license:

(a) For any cause specified in any other provision of this chapter;

(b) For any applicable cause for revocation of the license of a producer of insurance under NRS 683A.451; or

(c) If the licensee has for compensation represented or attempted to represent both the insurer and the insured in the same transaction.

2. The license of a business entity may be suspended, revoked, limited or continuation refused for any cause which relates to any individual designated with respect to the license to exercise its powers.

~~3. The holder of any license which has been suspended or revoked shall forthwith surrender the license to the Commissioner.~~

**Sec. 18.** NRS 684A.220 is hereby amended to read as follows:

684A.220 NRS 683A.451 ~~+~~ **and** 683A.461 ~~and 683A.480~~ also apply to suspension, revocation, limitation or refusal to continue adjusters' licenses and associate adjusters' licenses, except where in conflict with the express provisions of this chapter.

**Sec. 19.** NRS 684B.110 is hereby amended to read as follows:

684B.110 1. The Commissioner may suspend, revoke, limit or refuse to continue any motor vehicle physical damage appraiser's license:

(a) For any cause specified in any other provision of this chapter;

(b) For any such applicable cause as for revocation of the license of a producer of insurance under NRS 683A.451; or

(c) If the licensee has for compensation represented or attempted to represent both the insurer and the insured in the same transaction.

2. The license of a business organization may be suspended, revoked, limited or continuation refused for any cause which relates to any individual designated in or with respect to the license to exercise its powers.

~~{3. The holder of any license which has been suspended or revoked shall forthwith surrender the license to the Commissioner.}~~

**Sec. 20.** NRS 684B.120 is hereby amended to read as follows:

684B.120 NRS 683A.451 ~~{}~~ **and** 683A.461 ~~{and 683A.480}~~ also apply to suspension, revocation, limitation or refusal to continue motor vehicle physical damage appraiser's licenses, except where in conflict with the express provisions of this chapter.

**Sec. 21.** Chapter 685A of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

**Sec. 22.** *“Domestic surplus lines insurer” means an insurer which is authorized by the Commissioner to accept surplus lines insurance pursuant to section 23 of this act.*

**Sec. 23. 1.** *An insurer which is domiciled in this State may be designated as a domestic surplus lines insurer by the Commissioner if:*

*(a) The insurer possesses capital and surplus of not less than \$15,000,000; or*

*(b) The Commissioner makes an affirmative finding of acceptability pursuant to subsection 3 of NRS 685A.070.*

*2. A designation by the Commissioner of an insurer as a domestic surplus lines insurer must be in writing.*

*3. A domestic surplus lines insurer may accept surplus lines insurance in any jurisdiction in which it is eligible.*

*4. A broker who places surplus lines insurance with a domestic surplus lines insurer shall comply with:*

*(a) The provisions of NRS 685A.175 and 685A.180; and*

*(b) All other provisions of this chapter which apply to the export of nonadmitted insurance for an insured for which this State is the home state.*

*5. Except as otherwise provided by specific statute, the provisions of this Code regarding financial and solvency requirements apply to a domestic surplus lines insurer.*

*6. The provisions of chapter 686C and 687A of NRS do not apply to a domestic surplus lines insurer.*

**Sec. 24.** NRS 685A.030 is hereby amended to read as follows:

685A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 685A.031 to 685A.039, inclusive, **and section 22 of this act** have the meanings ascribed to them in those sections.

**Sec. 25.** NRS 685A.0375 is hereby amended to read as follows:

685A.0375 *1.* “Nonadmitted insurer” means an insurer not authorized to engage in the business of insurance in this State.

*2. The term includes a domestic surplus lines insurer.*

*3. The term does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4).*

**Sec. 26.** NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. With respect to nonadmitted insurance for insureds for which this State is the home state, except as otherwise provided in this section, an insurer is not eligible to accept surplus lines or independently procured risks pursuant to this chapter unless it has capital and surplus or its equivalent in an amount of not less than \$15,000,000 or the minimum capital and surplus requirements pursuant to NRS 680A.120, whichever is greater.

3. The requirements of ~~subsection~~ **subsections 2 and 4 and of subsection 1 of section 23 of this act** may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the Commissioner. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry. The Commissioner shall not make an affirmative finding of acceptability when the ~~nonadmitted~~ insurer's capital and surplus is less than \$4,500,000.

4. ***A broker shall not place surplus lines insurance with a domestic surplus lines insurer, and a domestic surplus lines insurer is not eligible to accept surplus lines, unless:***

***(a) The domestic surplus lines insurer possesses capital and surplus of not less than \$15,000,000; or***

***(b) The Commissioner has made an affirmative finding of acceptability pursuant to subsection 3.***

5. A broker shall not place surplus lines insurance with an alien insurer, unless the alien insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners or, if the alien insurer is not listed on the Quarterly Listing of Alien Insurers, it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms that are reasonably adequate to protect all of its policyholders in the United States. Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A single alien insurer, such a trust fund must not be less than the greater of \$5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed \$60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this State as of December 31 of the year immediately preceding the date of the determination where:

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this State. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than \$5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than \$100,000,000.

(c) A group of incorporated insurers under common administration, such a trust fund must not be less than \$100,000,000. Each insurer within the group must individually maintain capital and surplus of not less than \$25,000,000. The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom ~~+~~ *or its successor agency*;

(2) Possess aggregate policyholders surplus of \$10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trustee surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

~~5-~~ **6.** A foreign insurer must be ~~authorized~~:

(a) *Authorized* in the state of its domicile to write the kinds of insurance which it intends to write in Nevada and for which this State is the home state of the insured ~~+~~; *or*

(b) *A domestic surplus lines insurer in the state of its domicile.*

**Sec. 26.3. NRS 685A.075 is hereby amended to read as follows:**

685A.075 1. A nonprofit organization of surplus lines brokers may be formed to:

(a) Facilitate and encourage compliance by its members with the laws of this State and the rules and regulations of the Commissioner concerning surplus lines insurance;

(b) Provide a means for the review of all surplus lines coverage written in this State;

(c) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;

(d) Receive and disseminate to brokers information relative to surplus lines coverages; and

(e) Charge members a filing fee, approved by the Commissioner, for the review of surplus lines coverages.

2. Every such organization shall exercise its powers through a board of directors and shall file with the Commissioner:

(a) A copy of its constitution, articles of agreement or association or certificate of incorporation;

(b) A copy of its bylaws, rules and regulations governing its activities;

(c) A copy of its plan of operations established and approved by the Commissioner;

(d) A current list of its members;

(e) The name and address of a resident of this State upon whom notices or orders of the Commissioner or processes issued at the direction of the Commissioner may be served; and

(f) An agreement that the Commissioner may examine the organization in accordance with the provisions of this section.

3. The Commissioner shall make an examination of the affairs, transactions, accounts, records and assets of such an organization and any of its members as often as the Commissioner deems necessary for the protection of the interests of the people of this State, but no less frequently than once every 3 years. The officers, managers, agents and employees of such an organization may be examined at any time, under oath, and shall provide to the Commissioner all books, records, accounts, documents or agreements governing its method of operation. The Commissioner shall furnish two copies of the examination report to the organization examined and shall notify the organization that it may, within 20 days thereof, request a hearing on the report or on any facts or recommendations set forth therein. If the Commissioner finds such an organization or any member thereof to be in violation of this chapter, the Commissioner may, in addition to any administrative fine or penalty imposed pursuant to this Code, issue an order requiring the discontinuance of such violations. In lieu of an examination conducted pursuant to this subsection, the Commissioner may accept the report of an independent audit of such an organization if the Commissioner deems that an independent audit is in the best interest of the residents of this State.

4. The board of directors of such an organization must consist of not fewer than five persons. ~~The members of the board.~~ **Directors** must be appointed **in accordance with the bylaws of the organization. Any proposed director may**

***be disapproved*** by the Commissioner and ~~to serve~~ ***serves*** at the pleasure of the Commissioner.

5. A broker must be a member of such an organization as a condition of continued licensure under this chapter.

**Sec. 26.5.** NRS 685A.155 is hereby amended to read as follows:

685A.155 ~~1. A~~ ***The licensed surplus lines*** broker who ~~places any~~ ***is first engaged by or on behalf of an applicant for*** insurance ~~coverage with an authorized insurer pursuant to subsection 3 of NRS 685A.060~~ may charge a fee for procuring surplus lines coverage. Except as otherwise provided by agreement between the insurer and ~~that~~ broker, ***the sum of the fee and any other commissions, fees and charges payable to that broker*** must not exceed 20 percent of the premium ~~charged, after deduction of any other commissions, fees and charges payable to the broker.~~ ***paid by the insured.***

**Sec. 27.** NRS 685A.220 is hereby amended to read as follows:

685A.220 In addition to those referred to in other provisions of this chapter, the following provisions of chapter 683A of NRS, to the extent applicable and not inconsistent with the express provisions of this chapter, also apply to surplus lines brokers:

1. NRS 683A.341;
2. NRS 683A.361;
3. NRS 683A.400;
4. NRS 683A.451;
5. NRS 683A.461;
6. ~~NRS 683A.480;~~
- ~~7.~~ NRS 683A.490; and
- ~~8.~~ 7. NRS 683A.520.

**Sec. 28.** NRS 686A.520 is hereby amended to read as follows:

686A.520 1. The provisions of NRS 683A.341, 683A.451, 683A.461 ~~683A.480~~ and 686A.010 to 686A.310, inclusive, apply to companies.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “company.”

**Sec. 29.** NRS 686B.112 is hereby amended to read as follows:

686B.112 1. The Commissioner shall ***perform an actuarial review of and*** consider each ~~proposed increase or decrease in the~~ rate ***filing*** of a health plan issued pursuant to the provisions of chapter 689A, 689B, 689C, 695B, 695C, 695D or 695F of NRS, including, without limitation, long-term care and Medicare supplement plans, filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed ~~increase~~ ***rate which is contained in a rate filing*** will result in a rate which is not in compliance with NRS 686B.050 or subsection 3 of NRS 686B.070, the Commissioner shall disapprove the ~~proposal~~ ***rate filing***. The Commissioner shall approve or disapprove each ~~proposal~~ ***rate filing*** not later than 60 days after the ~~proposal~~ ***rate filing*** is determined by the Commissioner to be complete pursuant to subsection 4. If the Commissioner fails to approve or

disapprove the ~~proposal~~ rate filing within that period, the ~~proposal~~ rate filing shall be deemed approved.

2. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

3. If the Commissioner disapproves a ~~proposed~~ rate filing pursuant to subsection 1, and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive. Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

↪ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the ~~proposed~~ rate filing for which the hearing is held within 45 days after the hearing, the ~~proposed~~ rate filing shall be deemed approved.

4. The Commissioner shall by regulation specify the documents or any other information which must be included in ~~a proposal to increase or decrease~~ a rate filing submitted to the Commissioner pursuant to subsection 1. Each such ~~proposal~~ rate filing shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the ~~proposal~~ rate filing is filed with the Commissioner, determines that the ~~proposal~~ rate filing is incomplete because the ~~proposal~~ rate filing does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

**5. *The Commissioner may assess against an insurer the actual cost for the external actuarial review of ~~a proposal to increase or decrease~~ a rate filing submitted pursuant to subsection 1.***

**Sec. 30.** NRS 689.160 is hereby amended to read as follows:

689.160 1. The provisions of NRS 683A.341, 683A.451, 683A.461 ~~†~~ ~~683A.480~~ and 686A.010 to 686A.310, inclusive, apply to agents and sellers.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "agent" and "seller."

3. The provisions of NRS 679B.230 to 679B.300, inclusive, apply to sellers. Unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "seller."



**Sec. 31.** NRS 689.595 is hereby amended to read as follows:

689.595 1. The provisions of NRS 683A.341, 683A.451, 683A.461 ~~†~~  
~~683A.480†~~ and 686A.010 to 686A.310, inclusive, apply to agents and sellers.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “agent” and “seller.”

3. The provisions of NRS 679B.230 to 679B.300, inclusive, apply to sellers. Unless the context requires that a provision apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “seller.”

**Sec. 32.** NRS 690B.150 is hereby amended to read as follows:

690B.150 An insurer who issues policies of insurance for home protection, other than casualty insurance, shall file ~~the~~ :

1. *The* annual statement required by NRS 680A.270 in the form prescribed by the Commissioner on or before March 1 of each year to cover the preceding calendar year ~~†~~ ; *and*

2. *The quarterly statements required by NRS 680A.270 in accordance with the provisions of subsection 5 of that section.*

**Sec. 33.** NRS 690B.360 is hereby amended to read as follows:

690B.360 1. The Commissioner may collect all information which is pertinent to monitoring whether an insurer that issues professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS is complying with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive. Such information may include, without limitation:

(a) The amount of gross premiums collected with regard to each medical specialty;

(b) Information relating to loss ratios; *and*

(c) ~~Information reported pursuant to NRS 690B.260; and~~

~~(d)†~~ Information reported pursuant to NRS 679B.430 and 679B.440.

2. In addition to the information collected pursuant to subsection 1, the Commissioner may request any additional information from an insurer:

(a) Whose rates and credit utilization are materially different from other insurers in the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State;

(b) Whose credit utilization shows a substantial change from the previous year; or

(c) Whose information collected pursuant to subsection 1 indicates a potentially adverse trend.

3. If the Commissioner requests additional information from an insurer pursuant to subsection 2, the Commissioner may:

(a) Determine whether the additional information offers a reasonable explanation for the results described in paragraph (a), (b) or (c) of subsection 2; and

(b) Take any steps permitted by law that are necessary and appropriate to assure the ongoing stability of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State.

4. On an ongoing basis, the Commissioner may analyze and evaluate the information collected pursuant to this section to determine trends in and measure the health of the market for professional liability insurance for a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS in this State.

5. If the Commissioner convenes a hearing pursuant to subsection 1 of NRS 690B.350 and determines that the market for professional liability insurance issued to any class, type or specialty of practitioner licensed pursuant to chapter 630, 631 or 633 of NRS is not competitive and that such insurance is unavailable or unaffordable for a substantial number of such practitioners, the Commissioner shall prepare and submit a report of the Commissioner's findings and recommendations to the Director of the Legislative Counsel Bureau for transmittal to members of the Legislature.

**Sec. 34.** NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:

- (a) A registration application on a form prescribed by the Commissioner;
- (b) Proof that the provider has complied with the requirements for financial security set forth in NRS 690C.170;
- (c) A copy of each type of service contract the provider proposes to issue, sell or offer for sale;
- (d) The name, address and telephone number of each administrator with whom the provider intends to contract;
- (e) A fee of ~~[\$1,000]~~ **\$2,000** and ~~[-, in addition to any other fee or charge,]~~ all applicable fees required pursuant to NRS 680C.110 ~~[-]~~ **to be paid at the time of application;** and

(f) The following information for each controlling person:

- (1) Whether the person, in the last 10 years, has been:
  - (I) Convicted of a felony or misdemeanor of which an essential element is fraud;
  - (II) Insolvent or adjudged bankrupt;
  - (III) Refused a license or registration as a service contract provider or had an existing license or registration as a service contract provider suspended or revoked by any state or governmental agency or authority; or
  - (IV) Fined by any state or governmental agency or authority in any matter regarding service contracts; and
- (2) Whether there are any pending criminal actions against the person other than moving traffic violations.

2. In addition to the fee required by subsection 1, a provider must pay a fee of \$25 for each type of service contract the provider files with the Commissioner.

3. *Each year, not later than the anniversary date of his or her certificate of registration, a provider must pay the annual fee required pursuant to NRS 680C.110 in addition to any other fee required pursuant to this section.*

4. A certificate of registration is valid for ~~1 year~~ **2 years** after the date the Commissioner issues the certificate to the provider. A provider may renew his or her certificate of registration if, **not later than 60 days** before the certificate expires, the provider submits to the Commissioner:

- (a) An application on a form prescribed by the Commissioner;
- (b) A fee of ~~1,000~~ **\$2,000** and, in addition to any other fee or charge, all applicable fees required pursuant to ~~NRS 680C.110;~~ **subsection 3;** and
- (c) The information required by paragraph (f) of subsection 1:

(1) If an existing controlling person has had a change in any of the information previously submitted to the Commissioner; or

(2) For a controlling person who has not previously submitted the information required by paragraph (f) of subsection 1 to the Commissioner.

~~4.~~ 5. All fees paid pursuant to this section are nonrefundable.

~~5.~~ 6. Each application submitted pursuant to this section, including, without limitation, an application for renewal, must:

(a) Be signed by an executive officer, if any, of the provider or, if the provider does not have an executive officer, by a controlling person of the provider; and

(b) Have attached to it an affidavit signed by the person described in paragraph (a) which meets the requirements of subsection ~~6.~~  
~~6.~~ 7.

7. Before signing the application described in subsection ~~5.~~ **6**, the person who signs the application shall verify that the information provided is accurate to the best of his or her knowledge.

**Sec. 35.** Chapter 694C of NRS is hereby amended by adding thereto the provisions set forth as sections 36 and 37 of this act.

**Sec. 36.** *“Dormant captive insurer” means any captive insurer that has been issued a certificate of dormancy by the Commissioner pursuant to section 37 of this act.*

**Sec. 37. 1.** *A captive insurer which ceases to transact the business of insurance, including, without limitation, the issuance of insurance policies and the assumption of reinsurance, may apply to the Commissioner for a certificate of dormancy.*

**2.** *Upon application by a captive insurer pursuant to subsection 1, the Commissioner may issue a certificate of dormancy to the captive insurer. The Commissioner may issue a certificate of dormancy to a captive insurer even if the captive insurer retains liabilities that are associated with policies that were written or assumed by the captive insurer provided that the captive insurer has otherwise ceased to transact the business of insurance.*

**3.** *A dormant captive insurer shall:*

(a) *Possess and thereafter maintain unimpaired paid-in capital and surplus of not less than \$25,000.*

(b) Pursuant to NRS 694C.230, pay an annual fee and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 for the renewal of a license.

(c) Be subject to examination for any year for which the dormant captive insurer is not in compliance with the provisions of this section.

4. A dormant captive insurer may:

(a) At the discretion of the Commissioner, be subject to examination for any year for which the dormant captive insurer is in compliance with the provisions of this section.

(b) Continue to adjudicate and settle insurance claims under any contract of insurance or reinsurance that the captive insurer issued during any period in which the captive insurer was not a dormant captive insurer. The effective date of such a contract of insurance or reinsurance must be before the date on which the Commissioner issued a certificate of dormancy to the captive insurer.

5. A dormant captive insurer is not:

(a) Subject to or liable for the payment of any tax pursuant to NRS 694C.450.

(b) Required to:

(1) Prepare audited financial statements;

(2) Obtain actuarial certifications or opinions; or

(3) File annual reports with the Commissioner pursuant to NRS 694C.400.

6. A certificate of dormancy is subject to renewal after 5 years and is forfeited if not renewed within that period.

7. Except as otherwise provided by this section, before issuing any insurance policy or otherwise transacting the business of insurance, a dormant captive insurer must apply to the Commissioner for approval to surrender its certificate of dormancy and resume transacting the business of insurance.

8. The Commissioner shall revoke the certificate of dormancy of a dormant captive insurer that is not in compliance with the provisions of this section.

9. The Commissioner may adopt regulations necessary to carry out the provisions of this section.

Sec. 38. NRS 694C.010 is hereby amended to read as follows:

694C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 694C.020 to 694C.150, inclusive, **and section 36 of this act** have the meanings ascribed to them in those sections.

Sec. 39. NRS 694C.050 is hereby amended to read as follows:

694C.050 “Association captive insurer” means a captive insurer that only insures risks of the member organizations of an association and the affiliated companies of those members ~~including groups formed pursuant to the Product Liability Risk Retention Act of 1981, as amended, 15 U.S.C. §§ 3901 et seq.~~ if:

1. The association or the member organizations of the association:

(a) ~~{Own,}~~ **Have complete** control ~~{or hold with}~~ **over** the power to vote all the outstanding voting securities of the association captive insurer, if the association captive insurer is incorporated as a stock insurer; or

(b) Have complete voting control over the captive insurer, if the captive insurer is formed as a mutual insurer; and

2. The member organizations of the association collectively constitute all the subscribers of the captive insurer, if the captive insurer is formed as a reciprocal insurer.

**Sec. 40.** NRS 694C.060 is hereby amended to read as follows:

694C.060 “Captive insurer” means ~~{any}~~ :

**1. Any** pure captive insurer, association captive insurer, agency captive insurer, rental captive insurer and sponsored captive insurer licensed pursuant to this chapter. The term includes a pure captive insurer who, unless otherwise provided by the Commissioner, is a branch captive insurer with respect to operations in this State.

**2. Any state-chartered risk retention group.**

**Sec. 41.** NRS 694C.149 is hereby amended to read as follows:

694C.149 “State-chartered risk retention group” means any risk retention group that is formed in accordance with the laws of this State . ~~{as an association captive insurer.}~~

**Sec. 42.** NRS 694C.160 is hereby amended to read as follows:

694C.160 1. The terms and conditions set forth in chapter 696B of NRS pertaining to insurance reorganization, receiverships and injunctions apply to captive insurers incorporated pursuant to this chapter.

2. An agency captive insurer, a rental captive insurer and an association captive insurer are subject to those provisions of chapter 686A of NRS which are applicable to insurers.

3. A state-chartered risk retention group is subject to the following:

(a) The provisions of NRS 681A.250 to 681A.580, inclusive, regarding intermediaries;

(b) The provisions of NRS 681B.550 regarding risk-based capital;

(c) The provisions of chapter 683A of NRS regarding managing general agents; ~~{and}~~

(d) **The provisions of chapter 686A of NRS which are applicable to insurers; and**

(e) The provisions of NRS 693A.110 and any regulations adopted pursuant thereto regarding management and agency contracts of insurers.

**Sec. 43.** NRS 694C.180 is hereby amended to read as follows:

694C.180 1. Unless otherwise approved by the Commissioner, a pure captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer must be incorporated as a stock insurer.

2. An association captive insurer **or a state-chartered risk retention group** must be formed as a:

(a) Stock insurer;

(b) Mutual insurer; or

(c) Reciprocal insurer, except that its attorney-in-fact must be a corporation incorporated in this State.

3. A captive insurer shall have not less than three incorporators or organizers, at least one of whom must be a resident of this State.

4. Before the articles of incorporation of a captive insurer may be filed with the Secretary of State, the Commissioner must approve the articles of incorporation. In determining whether to grant that approval, the Commissioner shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, experience relating to insurance and business qualifications of the officers and directors of the captive insurer;

(c) The competence of any person who, pursuant to a contract with the captive insurer, will manage the affairs of the captive insurer;

(d) The competence, reputation and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(e) If the captive insurer is a rental captive insurer, the competence, reputation and experience of the underwriter of the captive insurer;

(f) The business plan of the captive insurer; and

(g) Such other aspects of the captive insurer as the Commissioner deems advisable.

5. The capital stock of a captive insurer incorporated as a stock insurer must be issued at not less than par value.

6. At least one member of the board of directors of a captive insurer formed as a corporation, or one member of the subscribers advisory committee or the attorney-in-fact of a captive insurer formed as a reciprocal insurer, must be a resident of this State.

7. A captive insurer formed pursuant to the provisions of this chapter has the privileges of, and is subject to, the provisions of general corporation law set forth in chapter 78 of NRS and, if formed as a nonprofit corporation, the provisions set forth in chapter 82 of NRS, as well as the applicable provisions contained in this chapter. If the provisions of this chapter conflict with the general provisions in chapter 78 or 82 of NRS governing corporations, the provisions of this chapter control. The provisions of chapter 693A of NRS relating to mergers, consolidations, conversions, mutualizations and transfers of domicile to this State apply to determine the procedures to be followed by captive insurers in carrying out any of those transactions in accordance with this chapter.

8. The articles of association, articles of incorporation, charter or bylaws of a captive insurer formed as a corporation must require that a quorum of the board of directors consists of not less than one-third of the number of directors prescribed by the articles of association, articles of incorporation, charter or bylaws.

9. The agreement of the subscribers or other organizing document of a captive insurer formed as a reciprocal insurer must require that a quorum of its subscribers advisory committee consists of not less than one-third of the number of its members.

**Sec. 44.** NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital or surplus required to be maintained pursuant to subsection 3, unimpaired paid-in capital and unencumbered surplus of:

- (a) For a pure captive insurer, not less than \$200,000;
- (b) For an association captive insurer, not less than \$500,000;
- (c) For an agency captive insurer, not less than \$600,000;
- (d) For a rental captive insurer, not less than \$800,000; ~~and~~
- (e) For a sponsored captive insurer, not less than \$500,000 ~~+~~; **and**
- (f) For a state-chartered risk retention group, not less than \$500,000.**

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital and surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital or surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital and surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital and surplus required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

5. ***A surplus note used by a captive insurer as evidence of capital and surplus required pursuant to this section must:***

***(a) Be subject to strict control by the Commissioner and have been approved by the Commissioner as to form and content.***

***(b) Be subordinate to:***

***(1) Policyholders;***

***(2) Claims by claimants and beneficiaries under policies; and***

***(3) All other classes of creditors pursuant to paragraph (k) of subsection 1 of NRS 696B.420.***

***(c) Require prior approval of the Commissioner for any:***

***(1) Payment of interest; and***

***(2) Repayment of principal.***

*(d) Be accompanied by proceeds which are received by the captive insurer in the form of:*

*(1) Cash; or*

*(2) Other assets that:*

*(I) Are acceptable to the Commissioner;*

*(II) Have values that are readily determined; and*

*(III) Have liquidity that is satisfactory to the Commissioner.*

*(e) Be accounted for in such a manner that interest shall not be recorded as a liability or an expense until approval for payment of such interest has been granted by the Commissioner.*

**Sec. 45.** NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after ~~an examination and~~ a hearing, the Commissioner determines that:

(a) The captive insurer:

(1) Is insolvent or has impaired its required capital or surplus;

(2) Has failed to meet a requirement of NRS 694C.250, 694C.320 or 694C.330;

(3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;

(4) Has failed to comply with the provisions of its charter or bylaws;

(5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed **to pay taxes on premiums as required by NRS 694C.450** or otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

**Sec. 46.** NRS 694C.300 is hereby amended to read as follows:

694C.300 1. Except as otherwise provided in this section, a captive insurer licensed pursuant to this chapter may transact any form of insurance described in NRS 681A.020 to 681A.080, inclusive.

2. A captive insurer licensed pursuant to this chapter:

(a) Shall not directly provide personal motor vehicle or homeowners' insurance coverage, or any component thereof.

(b) Shall not accept or cede reinsurance, except as otherwise provided in NRS 694C.350.



(c) May provide excess workers' compensation insurance to its parent and affiliated companies, unless otherwise prohibited by the laws of the state in which the insurance is transacted.

(d) May reinsure workers' compensation insurance provided pursuant to a program of self-funded insurance of its parent and affiliated companies if:

(1) The parent or affiliated company which is providing the self-funded insurance is certified as a self-insured employer by the Commissioner, if the insurance is being transacted in this State; or

(2) The program of self-funded insurance is otherwise qualified pursuant to, or in compliance with, the laws of the state in which the insurance is transacted.

3. A pure captive insurer shall not insure any risks other than those of its parent and affiliated companies or controlled unaffiliated businesses.

4. An association captive insurer shall not insure any risks other than those of the member organizations of its association and the affiliated companies of the member organizations.

5. ***A state-chartered risk retention group shall not insure any risks other than those of the members of its association.***

6. An agency captive insurer shall not insure any risks other than those of the policies that are placed by or through the insurance agency or brokerage that owns the captive insurer.

~~6-7~~ 7. A rental captive insurer shall not insure any risks other than those of the policyholders or associations that have entered into agreements with the rental captive insurer for the insurance of those risks. Such agreements must be in a form which has been approved by the Commissioner.

~~7-7~~ 8. A sponsored captive insurer shall not insure any risks other than those of its participants.

~~8-7~~ 9. As used in this section, "excess workers' compensation insurance" means insurance in excess of the specified per-incident or aggregate limit, if any, established by:

(a) The Commissioner, if the insurance is being transacted in this State; or

(b) The chief regulatory officer for insurance in the state in which the insurance is being transacted.

**Sec. 47.** NRS 694C.310 is hereby amended to read as follows:

694C.310 1. The board of directors of a captive insurer shall meet at least once each year in this State. The captive insurer shall:

(a) Maintain its principal place of business in this State; and

(b) Appoint a resident of this State as a registered agent to accept service of process and otherwise act on behalf of the captive insurer in this State. If the registered agent cannot be located with reasonable diligence for the purpose of serving a notice or demand on the captive insurer, the notice or demand may be served on the Secretary of State who shall be deemed to be the agent for the captive insurer.

2. A captive insurer shall not transact insurance in this State unless:

(a) The captive insurer has made adequate arrangements with ~~the~~ :

(1) *A state-chartered bank, a state-chartered credit union or a thrift company licensed pursuant to chapter 677 of NRS that is located in this State; or*

(2) *A federally chartered bank that has a branch which is located in this State,*

↳ *that is authorized pursuant to state or federal law to transfer money.* ~~††~~

(b) If the captive insurer employs or has entered into a contract with a natural person or business organization to manage the affairs of the captive insurer, the natural person or business organization meets the standards of competence and experience satisfactory to the Commissioner. ~~††~~

(c) The captive insurer employs or has entered into a contract with a qualified and experienced certified public accountant who is approved by the Commissioner or a firm of certified public accountants that is nationally recognized. ~~††~~

(d) The captive insurer employs or has entered into a contract with qualified, experienced actuaries who are approved by the Commissioner to perform reviews and evaluations of the operations of the captive insurer. ~~††~~  
~~and†~~

(e) The captive insurer employs or has entered into a contract with an attorney who is licensed to practice law in this State and who meets the standards of competence and experience in matters concerning the regulation of insurance in this State established by the Commissioner by regulation.

**Sec. 48.** NRS 694C.330 is hereby amended to read as follows:

694C.330 *1.* Except as otherwise provided in this section, a captive insurer shall pay dividends out of, or make any other distributions from, its capital or surplus, or both, in accordance with the provisions set forth in NRS 692C.370, 693A.140, 693A.150 and 693A.160.

*2.* A captive insurer *other than a state-chartered risk retention group* shall not pay *extraordinary* dividends out of, or make any other *extraordinary* distribution with respect to, its capital or surplus, or both, in violation of this section unless the captive insurer has obtained the prior approval of the Commissioner to make such a payment or distribution. *As used in this subsection, “extraordinary dividend” and “extraordinary distribution” mean any dividend or distribution of cash or other property, the fair market value of which, together with that of other dividends or distributions within the preceding 12 months, exceeds the greater of:*

*(a) Ten percent of the surplus of the captive insurer as of December 31 next preceding the date of the dividend or distribution; or*

*(b) The net income of the captive insurer for the 12-month period ending December 31 next preceding the date of the dividend or distribution.*

*3. A state-chartered risk retention group shall not pay any dividend or distribution without prior approval of the Commissioner.*

**Sec. 49.** NRS 694C.340 is hereby amended to read as follows:

694C.340 *1.* Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental

captive insurer, ~~or~~ a sponsored captive insurer *or a state-chartered risk retention group* shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer, ~~or~~ sponsored captive insurer ~~or~~ *or state-chartered risk retention group*, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

- (a) Is first approved in writing by the Commissioner;
- (b) Is evidenced by a note that is in a form that is approved by the Commissioner; and
- (c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250.

**Sec. 50.** NRS 694C.390 is hereby amended to read as follows:

694C.390 1. In addition to the information required pursuant to NRS 694C.210, a state-chartered risk retention group ~~being formed as an association captive insurer~~ must submit to the Commissioner in summary form:

- (a) The identities of:
  - (1) All members of the group;
  - (2) All organizers of the group;
  - (3) Those persons who will provide administrative services to the group;
- and
- (4) Any person who will influence or control the activities of the group;
- (b) The amount and nature of initial capitalization of the group;
- (c) The coverages to be offered by the group; and
- (d) Each state in which the group intends to operate.

2. Before it may transact insurance in any state, the state-chartered risk retention group must submit to the Commissioner, for approval by the Commissioner, a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.

3. A state-chartered risk retention group chartered in this State must file with the Commissioner on or before March 1 of each year a statement containing information concerning the immediately preceding year which must:

- (a) Be submitted in a form prescribed by the National Association of Insurance Commissioners;

(b) Be prepared in accordance with the Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement;

(c) Utilize accounting principles in a manner that remains consistent among financial statements submitted each year and that are substantively identical to:

(1) Generally accepted accounting principles, including any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner; or

(2) Statutory accounting principles, as described in the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(d) Be submitted electronically, if required by the Commissioner.

4. The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:

(a) All information submitted by a state-chartered risk retention group to the Commissioner pursuant to subsections 1 and 3; and

(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 2.

**Sec. 51.** NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by *the Commissioner. Each state-chartered risk retention group shall file its report in the form required by* NRS 680A.270. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. Each captive insurer other than a state-chartered risk retention group shall submit to the Commissioner, on or before June 30 of each year, an annual audit as of December 31 of the preceding calendar year that is certified by a certified public accountant who is not an employee of the insurer. An annual audit submitted pursuant to this subsection must comply with the requirements set forth in regulations adopted by the Commissioner which govern such an annual audit ~~†~~, *including, without limitation, criteria for extensions and exemptions.*

3. Each state-chartered risk retention group shall file a financial statement pursuant to NRS 680A.265.

4. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted, the annual report is due not later than 60 days after the end of each such fiscal year.

5. A pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

6. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual report of financial condition as required by subsection 1, its annual audit as required by subsection 2 or its financial statement as required by subsection 3 shall pay a penalty of \$100 for each day the captive insurer fails to file the report of financial condition, the annual audit or the financial statement, but not to exceed an aggregate amount of \$3,000, to be recovered in the name of the State of Nevada by the Attorney General.

7. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

**Sec. 52.** Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

*A corporation which has been issued a certificate of authority pursuant to this chapter shall maintain and report on its statement filed with the Commissioner pursuant to NRS 695B.160 a net worth in an amount which is not less than the greater of:*

- 1. One million five hundred thousand dollars;*
- 2. Two percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in that same period; or*
- 3. The amount of risk-based capital required by regulations adopted by the Commissioner pursuant to NRS 681B.550.*

**Sec. 53.** NRS 695B.160 is hereby amended to read as follows:

695B.160 1. Every corporation subject to the provisions of this chapter shall annually:

(a) On or before March 1, file in the Office of the Commissioner a statement verified by at least two of the principal officers of the corporation, showing its condition and affairs as of December 31 of the preceding calendar year. The statement must be in the form required by the Commissioner and must contain statements relative to the matters required to be established as a condition precedent to maintaining or operating a nonprofit hospital, medical or dental service plan and to other matters which the Commissioner may prescribe.

(b) Pay all applicable fees for the renewal of a certificate of authority and the fee for the filing of an annual statement.

2. *Every corporation subject to the provisions of this chapter shall file a financial statement pursuant to NRS 680A.265, as required pursuant to paragraph (c) of subsection 1 of NRS 680A.265.*

3. *Every corporation subject to the provisions of this chapter shall file with the Commissioner and the National Association of Insurance Commissioners a quarterly statement in the form most recently adopted by the National Association of Insurance Commissioners for that type of insurer. The quarterly statement must be:*

(a) *Prepared in accordance with the instructions which are applicable to that form, including, without limitation, the required date of submission for the form; and*

(b) *Filed by electronic means.*

4. The Commissioner may examine, as often as the Commissioner deems it desirable, the affairs of every corporation subject to the provisions of this chapter. The Commissioner shall, if practicable, examine each such corporation at least once in every 3 years, and in any event, at least once in every 5 years, as to its condition, fulfillment of its contractual obligations and compliance with applicable laws. ~~For examining the financial condition of every such corporation the Commissioner shall collect the~~ *The actual expenses of the examination ~~[Such expenses]~~ must be paid by the corporation ~~[ ]~~ in accordance with the provisions of NRS 679B.290.* The Commissioner shall refuse to issue a certificate of authority or shall revoke a certificate of authority issued to any corporation which neglects or refuses to pay such expenses.

**Sec. 54.** Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

*A health maintenance organization which has been issued a certificate of authority pursuant to this chapter shall maintain and report on each financial statement filed with the Commissioner pursuant to NRS 695C.210 a net worth in an amount which is not less than the greatest of:*

1. *One million five hundred thousand dollars;*
2. *Two percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in that same period; or*
3. *The amount of risk-based capital required by regulations adopted by the Commissioner pursuant to NRS 681B.550.*

**Sec. 55.** NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, subsections ~~6 and 7~~ *and 8* of NRS 680A.270, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, chapter 686A of NRS, *NRS 686B.010 to 686B.1799, inclusive, and 687B.500 and chapters 692C and 695G of NRS apply to a health maintenance organization.*

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to “insurer” must be replaced by “health maintenance organization.”

**Sec. 55.5.** NRS 695C.057 is hereby amended to read as follows:

695C.057 1. A health maintenance organization is subject to the provisions of NRS **689A.470 to 689A.740, inclusive**, 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by such organizations. If there is a conflict between the provisions of this chapter and the provisions of NRS **689A.470 to 689A.740, inclusive**, 689B.340 to 689B.580, inclusive, and chapter 689C of NRS, the provisions of NRS **689A.470 to 689A.740, inclusive**, 689B.340 to 689B.580, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to “group health plan” or “carrier” must be replaced by “health maintenance organization.”

**Sec. 56.** NRS 695C.210 is hereby amended to read as follows:

695C.210 1. Every health maintenance organization shall file with the Commissioner on or before March 1 of each year a report showing its financial condition on the last day of the preceding calendar year. The report must be verified by at least two principal officers of the organization.

2. The report must be on forms prescribed by the Commissioner and must include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information submitted pursuant to NRS 695C.070;

(c) The number of persons enrolled during the year, the number of enrollees as of the end of the year, the number of enrollments terminated during the year and, if requested by the Commissioner, a compilation of the reasons for such terminations;

(d) The number and amount of malpractice claims initiated against the health maintenance organization and any of the providers used by it during the year broken down into claims with and without form of legal process, and the disposition, if any, of each such claim, if requested by the Commissioner;

(e) A summary of information compiled pursuant to paragraph (c) of subsection 1 of NRS 695C.080 in such form as required by the Commissioner; and

(f) Such other information relating to the performance of the health maintenance organization as is necessary to enable the Commissioner to carry out his or her duties pursuant to this chapter.

3. Every health maintenance organization shall file with the Commissioner annually an audited financial statement of the organization ~~prepared by an independent certified public accountant. The statement must cover the preceding 12-month period and must be filed with the Commissioner~~

~~within 120 days after the end of the organization's fiscal year.]~~ ***in accordance with the provisions of subsection 1 of NRS 680A.265.*** Upon written request, the Commissioner may grant a 30-day extension.

***4. Every health maintenance organization shall file with the Commissioner and the National Association of Insurance Commissioners a quarterly statement in the form most recently adopted by the National Association of Insurance Commissioners for that type of insurer. The quarterly statement must be:***

***(a) Prepared in accordance with the instructions which are applicable to that form, including, without limitation, the required date of submission for the form; and***

***(b) Filed by electronic means.***

**5.** If an organization fails to file timely ~~the~~ **a** report or financial statement required by this section, it shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

~~§-§~~ **6.** The Commissioner may grant a reasonable extension of time for filing ~~the~~ **any** report or ~~financial~~ statement required by this section, if the request for an extension is submitted in writing and shows good cause.

**Sec. 57.** NRS 695C.310 is hereby amended to read as follows:

695C.310 1. The Commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State, but not less frequently than once every 3 years.

2. The Commissioner shall make an examination concerning any compliance program used by a health maintenance organization and any report, as determined to be appropriate by the Commissioner, regarding the health maintenance organization produced by an organization which examines best practices in the insurance industry. The Commissioner shall make such an examination as often as the Commissioner deems it necessary for the protection of the interests of the people of this State, but not less frequently than once every 3 years.

3. In making an examination pursuant to subsection 1 or 2, the Commissioner:

(a) Shall determine whether the health maintenance organization is in compliance with this Code, including, without limitation, whether any relationship or transaction between the health maintenance organization and any other health maintenance organization is in compliance with this Code; and

(b) May examine any account, record, document or transaction of any health maintenance organization or any provider which relates to:



(1) Compliance with this Code by the health maintenance organization which is the subject of the examination;

(2) Any relationship or transaction between the health maintenance organization which is the subject of the examination and any other health maintenance organization; or

(3) Any relationship or transaction between the health maintenance organization which is the subject of the examination and any provider.

4. Except as otherwise provided in this subsection, for the purposes of an examination pursuant to subsection 1 or 2, each health maintenance organization and provider shall, upon the request of the Commissioner or an examiner designated by the Commissioner, submit its books and records relating to any applicable health care plan to the Commissioner or the examiner, as applicable. Medical records of natural persons and records of physicians providing service pursuant to a contract with a health maintenance organization are not subject to such examination, although the records, except privileged medical information, are subject to subpoena upon a showing of good cause. For the purpose of examinations, the Commissioner may administer oaths to and examine the officers and agents of a health maintenance organization and the principals of providers concerning their business.

5. The expenses of examinations pursuant to this section must be assessed ~~against the health maintenance organization being examined and remitted to the Commissioner.~~ , ***billed and paid in accordance with the provisions of NRS 679B.290.***

6. In lieu of an examination pursuant to this section, the Commissioner may accept the report of an examination made by the insurance commissioner of another state or an applicable regulatory agency of another state.

**Sec. 58.** Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

***An organization for dental care which has been issued a certificate of authority pursuant to this chapter shall maintain a capital account with a net worth in an amount which is not less than the greater of:***

***1. The amount of risk-based capital required by regulations adopted by the Commissioner pursuant to NRS 681B.550; or***

***2. The following applicable amount, according to the number of members in the organization:***

***Number of members***

***Less than 2,500 ..... \$50,000***

***At least 2,500 but not more than 5,000 ..... 75,000***

***More than 5,000 ..... 125,000***

**Sec. 59.** NRS 695D.260 is hereby amended to read as follows:

695D.260 1. Every organization for dental care shall file with the Commissioner on or before March 1 of each year a report covering its activities

for the preceding calendar year. The report must be verified by at least two officers of the organization.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding calendar year.

(b) Any material changes in the information given in the previous report.

(c) The number of members enrolled in that year, the number of members whose coverage has been terminated in that year and the total number of members at the end of the year.

(d) The costs of all goods, services and dental care provided that year.

(e) Any other information relating to the plan for dental care requested by the Commissioner.

3. Every organization for dental care shall file with the Commissioner annually an audited financial statement ~~prepared by an independent certified public accountant. The statement must cover the most recent fiscal year of the organization and must be filed with the Commissioner within 120 days after the end of that fiscal year.~~ ***in accordance with the provisions of subsection 1 of NRS 680A.265.***

4. ***Every organization for dental care shall file with the Commissioner and the National Association of Insurance Commissioners a quarterly statement in the form most recently adopted by the National Association of Insurance Commissioners for that type of insurer. The quarterly statement must be:***

***(a) Prepared in accordance with the instructions which are applicable to that form, including, without limitation, the required date of submission for the form; and***

***(b) Filed by electronic means.***

5. If an organization fails to file timely ~~the~~ a report or financial statement required by this section, it shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

~~5.~~ 6. The Commissioner may grant a reasonable extension of time for filing ~~the~~ any report or ~~financial~~ statement required by this section, if the request for an extension is submitted in writing and shows good cause.

~~6.~~ 7. The organization shall pay the Department of Taxation the annual tax, any penalty for nonpayment or delinquent payment of the tax imposed in chapter 680B of NRS, and a filing fee of \$25 to the Commissioner, at the time the annual report is filed.

**Sec. 60.** NRS 695E.210 is hereby amended to read as follows:

695E.210 1. ~~Any~~ ***The provisions of chapters 683A and 685A of NRS apply to any*** person acting, or offering to act, as an agent or broker for ~~it~~ :

***(a) A purchasing group ~~it~~;***

***(b) A member of a purchasing group under the group policy ~~it~~; or***

(c) A risk retention group transacting insurance in this ~~state is subject to the provisions of chapters 683A and 685A of NRS.~~ **State.**

2. Except as otherwise provided in this chapter, the provisions of chapter 679B of NRS apply to purchasing groups and risk retention groups, and to the provisions of this chapter, to the extent that the provisions of chapter 679B of NRS are not specifically preempted by the Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Amendments of 1986.

3. A risk retention group that violates any provision of this chapter is subject to the fines and penalties, including revocation of its right to do business in this state, applicable to licensed insurers under this title.

**Sec. 61.** NRS 695F.200 is hereby amended to read as follows:

695F.200 1. Except as otherwise provided in this section, each prepaid limited health service organization which receives a certificate of authority shall maintain ~~it~~ **all of the following:**

(a) ~~Capital~~ **A capital** account with a net worth of not less than \$500,000 unless a lesser amount is permitted in writing by the Commissioner. The account must not be obligated for any accrued liabilities and must consist of cash, securities or a combination thereof which is acceptable to the Commissioner.

(b) ~~Surety~~ **A surety** bond or deposit of cash or securities for the protection of enrollees of not less than \$500,000.

(c) **The amount of risk-based capital required by regulations adopted by the Commissioner pursuant to NRS 681B.550.**

2. The Commissioner may increase the required amount of the organization's capital account, ~~and the~~ surety bond or deposit **and capital maintained pursuant to paragraph (c) of subsection 1** to any ~~amounts~~ **amount** the Commissioner determines to be appropriate pursuant to subsection 3 if the Commissioner determines that such an increase is necessary to:

(a) Assist the Commissioner in the performance of his or her regulatory duties;

(b) Ensure that the organization complies with the requirements of this Code; or

(c) Ensure the solvency of the organization.

3. When determining the appropriate amount of an increase pursuant to subsection 2, the Commissioner must base his or her determination on the type, volume and nature of premiums written and premiums assumed by the organization.

4. The amount of the organization's capital account, ~~and~~ surety bond or deposit **and capital maintained pursuant to paragraph (c) of subsection 1, as required pursuant to ~~this section.~~ subsections 1 and 2:**

(a) Is in addition to any reserve required by this chapter and any reserve established by the organization according to good business and accounting practices for incurred but unreported claims and other similar claims; and

(b) May increase the amount of risk-based capital required pursuant to NRS 681B.550.

5. The amount of the organization's surety bond or deposit ***and capital maintained pursuant to paragraph (c) of subsection 1, as*** required pursuant to ~~this section~~ ***subsections 1 and 2*** may increase the amount of net worth required pursuant to ~~this section~~ ***subsections 1 and 2.***

**Sec. 62.** NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be ~~charged to the organization being examined and remitted to the Commissioner~~ ***assessed, billed and paid in accordance with the provisions of NRS 679B.290.***

**Sec. 63.** NRS 695F.320 is hereby amended to read as follows:

695F.320 1. Each prepaid limited health service organization shall file with the Commissioner annually, on or before March 1, a report showing its financial condition on the last day of the preceding calendar year. The report must be verified by at least two principal officers of the organization.

2. The report must be on a form prescribed by the Commissioner and include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) The number of subscribers at the beginning and the end of the year and the number of enrollments terminated during the year; and

(c) Such other information as the Commissioner may prescribe.

3. Each prepaid limited health service organization shall file with the Commissioner annually an audited financial statement prepared ~~by an independent certified public accountant. The statement must cover the most recent fiscal year of the organization and must be filed with the Commissioner within 120 days after the end of that fiscal year.~~ ***in accordance with the provisions of subsection 1 of NRS 680A.265.***

4. ***Each prepaid limited health service organization shall file with the Commissioner and the National Association of Insurance Commissioners a quarterly statement in the form most recently adopted by the National Association of Insurance Commissioners for that type of insurer. The quarterly statement must be:***

(a) ***Prepared in accordance with the instructions which are applicable to that form, including, without limitation, the required date of submission for the form; and***

**(b) Filed by electronic means.**

5. The Commissioner may require more frequent reports containing such information as is necessary to enable the Commissioner to carry out his or her duties pursuant to this chapter.

~~5.1~~ 6. The Commissioner may:

(a) Assess a fine of not more than \$100 per day for each day ~~the~~ a report or ~~financial~~ statement required pursuant to this section is not filed after the report or ~~financial~~ statement is due, but the fine must not exceed \$3,000; and

(b) Suspend the organization's certificate of authority until the organization files the report ~~or~~ **statement, as applicable.**

**Sec. 64.** NRS 695J.260 is hereby amended to read as follows:

695J.260 1. If an exchange enrollment facilitator fails to obtain an appointment by the Exchange within 30 days after the date on which the certificate was issued, the exchange enrollment facilitator's certificate expires ~~. [and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.]~~

2. If the Exchange terminates an exchange enrollment facilitator's appointment, the exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date the appointment was terminated, the exchange enrollment facilitator's certificate expires ~~. [and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.]~~

3. Except as otherwise provided in subsection 4, if the Exchange terminates the appointment of an entity other than a natural person:

(a) The appointments of exchange enrollment facilitators named on the entity's appointment also terminate; and

(b) The exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date on which the appointment was terminated, the exchange enrollment facilitator's certificate expires ~~. [and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.]~~

4. The provisions of subsection 3 do not apply to any appointments the exchange enrollment facilitator may have individually or through an entity other than the terminated entity.

5. Upon the termination of an appointment for an entity or certificate holder, the Executive Director of the Exchange shall notify the Commissioner of the effective date of the termination and the grounds for termination.

Sec. 65. Chapter 696B of NRS is hereby amended by adding thereto the provisions set forth as sections 66 and 67 of this act.

Sec. 66. 1. *Not later than 1 year after the date of entry of an order appointing a receiver in delinquency proceedings for an insurer pursuant to this chapter, and not less frequently than annually thereafter, the receiver shall comply with all requirements for financial reporting for a receivership as specified by the National Association of Insurance Commissioners. The reports required pursuant to this subsection include, without limitation, a statement of:*

- (a) The assets and liabilities of the insurer;*
- (b) Changes in those assets and liabilities; and*
- (c) All funds received and disbursed by the receiver during the period since the last such report.*

2. *The receiver may:*

- (a) Qualify any report and provide notes to any statement for further explanation; and*
- (b) Provide any additional information required pursuant to an order of the court or as the receiver deems appropriate.*

3. *In addition to satisfying any filing requirements established by the National Association of Insurance Commissioners, the receiver shall file the reports, statements and other documents required by this section with the court that has jurisdiction over the receivership.*

4. *For good cause shown, the court may grant an extension or modification of time to comply with subsection 1 or such other relief as may be appropriate.*

Sec. 67. 1. *Not later than 1 year after the date of entry of an order appointing a receiver in delinquency proceedings for an insurer pursuant to this chapter, and at such intervals as may be agreed to between the receiver and a guaranty association but in no event less frequently than annually, each guaranty association which is affected by the delinquency proceedings shall comply with all applicable requirements for financial reporting as specified by the National Association of Insurance Commissioners.*

2. *In addition to satisfying any filing requirements established by the National Association of Insurance Commissioners, each guaranty association which is affected by the delinquency proceedings shall file the reports and other documents required by this section with:*

- (a) The court that has jurisdiction over the receivership;*
- (b) The Commissioner; and*
- (c) The receiver.*

3. *For good cause shown, the court may grant an extension or modification of time to comply with subsection 1 or such other relief as may be appropriate.*

4. *As used in this section, "guaranty association" means the Nevada Insurance Guaranty Association, the Nevada Life and Health Insurance*

*Guaranty Association or a similar organization in another jurisdiction, as applicable.*

**Sec. 68.** NRS 696B.150 is hereby amended to read as follows:

696B.150 “Reciprocal state” means any state other than this state in which in substance and effect the provisions of the Uniform Insurers Liquidation Act ~~or the Insurer Receivership Model Act~~ are in force, including provisions requiring that the commissioner of insurance or the equivalent insurance supervisory officer be the receiver of a delinquent insurer, and in which effective provisions exist for avoidance of fraudulent conveyances and unlawful preferential transfers.

**Sec. 69.** NRS 696B.280 is hereby amended to read as follows:

696B.280 1. This section, NRS 696B.030 to 696B.180, inclusive, (definitions) and NRS 696B.290 to 696B.340, inclusive, **and sections 66 and 67 of this act** comprise ~~and may be cited as the Uniform Insurers Liquidation Act~~ **the Uniform Insurers Liquidation Act and the Insurer Receivership Model Act.**

2. If any provision of the ~~Uniform Insurers Liquidation Act~~ **NAIC Acts** or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ~~act~~ **NAIC Acts** which can be given effect without the invalid provision or application, and to this end the provisions of the ~~act~~ **NAIC Acts** are declared to be severable.

3. The ~~Uniform Insurers Liquidation Act~~ **NAIC Acts** shall be so interpreted as to effectuate ~~its~~ **the** general purpose to make uniform the laws of those states which enact ~~it~~ **the Uniform Insurers Liquidation Act or the Insurer Receivership Model Act.** To the extent that ~~its~~ **the** provisions ~~of~~ **the NAIC Acts**, when applicable, conflict with other provisions of this Code, the provisions of the ~~Uniform Insurers Liquidation Act~~ **NAIC Acts** shall control.

4. **As used in this section, “NAIC Acts” means this section, NRS 696B.030 to 696B.180, inclusive, and NRS 696B.290 to 696B.340, inclusive, and sections 66 and 67 of this act.**

**Sec. 70.** NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS 683A.261.
4. NRS 683A.301.
5. NRS 683A.311.
6. NRS 683A.331.
7. NRS 683A.341.
8. NRS 683A.361.
9. NRS 683A.400.

10. NRS 683A.451.

11. NRS 683A.461.

12. ~~NRS 683A.480.~~

~~13.~~ NRS 683A.500.

~~14.~~ 13. NRS 683A.520.

~~15.~~ 14. NRS 686A.010 to 686A.310, inclusive.

**Sec. 71.** NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against any licensee for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6 of NRS 630.307 and NRS 690B.250 ; ~~and 690B.260;~~ and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

**Sec. 72.** NRS 630.3069 is hereby amended to read as follows:

630.3069 If the Board receives a report pursuant to the provisions of NRS 630.3067, 630.3068 ~~+~~ **or** 690B.250 ~~or 690B.260~~ indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, the Board shall conduct an investigation to determine whether to impose disciplinary action against the physician regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.



**Sec. 73.** NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his or her competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068 ~~††~~ or 690B.250 ~~for 690B.260~~ indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, the Board or committee may order that the physician undergo a mental or physical examination, an examination testing his or her competence to practice medicine or any other examination designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice medicine when ordered to do so in writing by the Board or an investigative committee of the Board.

(b) The testimony or reports of a person who conducts an examination of a physician on behalf of the Board or an investigative committee of the Board pursuant to this section are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against the physician.

**Sec. 74.** NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians and physician assistants for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and 6 of NRS 633.533 and NRS 690B.250 ; ~~and 690B.260;~~ and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

**Sec. 75.** NRS 633.528 is hereby amended to read as follows:

633.528 If the Board receives a report pursuant to the provisions of NRS 633.526, 633.527 ~~+~~ **or** 690B.250 ~~for 690B.260~~ indicating that a judgment has been rendered or an award has been made against an osteopathic physician or physician assistant regarding an action or claim for malpractice or that such an action or claim against the osteopathic physician or physician assistant has been resolved by settlement, the Board shall conduct an investigation to determine whether to discipline the osteopathic physician or physician assistant regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.

**Sec. 76.** NRS 633.529 is hereby amended to read as follows:

633.529 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or an investigative committee of the Board receives a report pursuant to the provisions of NRS 633.526, 633.527 ~~+~~ **or** 690B.250 ~~for 690B.260~~ indicating that a judgment has been rendered or an award has been made against an osteopathic physician or physician assistant regarding an action or claim for malpractice, or that such an action or claim against the osteopathic physician or physician assistant has been resolved by settlement, the Board or committee may order the osteopathic physician or physician assistant to undergo a mental or physical examination or any other examination designated by the Board to test his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable. An examination conducted pursuant to this subsection must be conducted by a person designated by the Board.

2. For the purposes of this section:

(a) An osteopathic physician or physician assistant who applies for a license or who holds a license under this chapter is deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable, pursuant to a written order by the Board.

(b) The testimony or reports of a person who conducts an examination of an osteopathic physician or physician assistant on behalf of the Board pursuant to this section are not privileged communications.

**Sec. 77.** NRS 679B.144, 690B.260 and 690B.340 are hereby repealed.

**Sec. 78.** NRS 680A.310, 683A.480 and 696A.330 are hereby repealed.

**Sec. 79.** 1. This section and sections 2, 3, ~~29~~, 33 and 71 to 77, inclusive, of this act become effective upon passage and approval.

2. Sections 1, ~~14 to 32~~, **3.5 to 28**, inclusive, ~~30, 31, 32~~, 35 to 70, inclusive, and 78 of this act become effective on October 1, 2019.

3. Section 34 of this act becomes effective on January 1, 2020.

**LEADLINES OF REPEALED SECTIONS**

**679B.144** Commissioner required to collect information regarding closed claims for medical malpractice; submission to Legislature; regulations.

**680A.310** Exceptions to requirements for countersignature by agent.

**683A.480** Return of license to Commissioner.

**690B.260** Physicians and osteopathic physicians: Reports to Commissioner and licensing boards.

**690B.340** Review of settlement or judgment by Commissioner.

**696A.330** Surrender of certificate after revocation or suspension of license.

Assemblywoman Spiegel moved the adoption of the amendment.

Remarks by Assemblywoman Spiegel.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 129.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 837.

AN ACT relating to ethics in government; making various changes relating to the provisions governing ethics in government; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

With certain exceptions, the Nevada Ethics in Government Law (Ethics Law) governs the conduct of public officers and employees and, in certain situations, former public officers and employees after the end of their period of public service or employment. The Ethics Law is carried out and enforced by the Commission on Ethics, which is authorized to issue opinions interpreting the statutory ethical standards established by the Ethics Law and applying those standards to a given set of facts and circumstances. The Ethics Law also authorizes any state agency or the governing body of a county or city to establish a specialized or local ethics committee to complement the functions of the Commission. (Chapter 281A of NRS)

Under the Ethics Law, the Commission is authorized to issue advisory opinions requested by current and former public officers and employees who are: (1) seeking guidance on matters which directly relate to the propriety of their own past, present or future conduct under the statutory ethical standards; or (2) requesting relief from certain provisions of the Ethics Law that allow the Commission to grant such relief. (NRS 281A.670-281A.690) The Commission is also authorized to issue opinions in response to ethics complaints filed with or initiated by the Commission regarding the propriety

of the conduct of current and former public officers and employees under the statutory ethical standards. (NRS 281A.700-281A.790)

This bill amends the Ethics Law by clarifying, revising and adding to existing provisions which govern: (1) the operation, powers, functions and duties of the Commission, its members and staff and any specialized or local ethics committees; (2) the statutory ethical standards that apply to the conduct of current and former public officers and employees; and (3) the proceedings concerning requests for advisory opinions and ethics complaints and the issuance of opinions and the imposition of remedies and penalties by the Commission.

**Sections 2, ~~7, 9,~~ 23-27 and 29-31** of this bill make various changes to existing provisions of the Ethics Law which govern the operation, powers, functions and duties of the Commission, its members and staff and any specialized or local ethics committees. (NRS 281A.200-281A.350) Under the Ethics Law, the Commission must annually elect a Chair and Vice Chair who are assigned certain powers, functions and duties. (NRS 281A.210, 281A.220, 281A.240, 281A.300) **Sections 2 and 23** of this bill provide for the Chair's powers, functions and duties to be assigned for a particular matter to the Vice Chair or another member of the Commission under certain circumstances. **Section 30** of this bill provides for a member of the Commission to administer oaths when appointed by the Chair to preside over any meetings, hearings or proceedings.

The Ethics Law requires the Chair to appoint review panels, consisting of three members of the Commission, to review ethics complaints during the investigatory stage of the proceedings, and if a review panel determines that there is just and sufficient cause for the Commission to render an opinion in a matter, the members of the review panel generally cannot participate in any further proceedings of the Commission relating to that matter. (NRS 281A.220) However, the Ethics Law permits the members of the review panel to authorize the development of and approve a deferral agreement in the proceedings. (NRS 281A.730) **Section 24** of this bill permits one or more members of the review panel, with the consent of the parties, to participate as mediators or facilitators in any settlement negotiations between the parties that are conducted in the proceedings before the Commission holds an adjudicatory hearing in the matter.

~~The Ethics Law requires the Commission to appoint and prescribe the duties of the Executive Director who must have experience in administration, investigations and law. (NRS 281A.230) Section 25 of this bill adds to these qualifications by requiring the Executive Director to be an attorney who is licensed to practice law in Nevada.~~

~~Under the Ethics Law, the Commission may conduct investigations and proceedings and secure the participation and attendance of witnesses and the production of any books and papers. (NRS 281A.290, 281A.300) Section 7 of this bill requires public officers and employees to cooperate with the Commission in its investigations and proceedings and to furnish information~~

~~and reasonable assistance to the Commission, except to the extent that they are entitled to the protection of certain rights, privileges or immunities or any confidentiality or other protection recognized by law. Section 7 is modeled, in part, on similar provisions governing the Commission on Judicial Discipline. (NRS 1.460).]~~

The Ethics Law requires the Commission on Ethics to appoint and prescribe the duties of the Commission Counsel who is the legal adviser to the Commission and who, in most cases, is directed by the Commission to act as legal counsel in any litigation in which the Commission or its members or staff are parties in an official capacity. (NRS 281A.250, 281A.260) ~~Under Nevada's Open Meeting Law, the Commission may receive information regarding any litigation from its legal counsel and deliberate toward a decision regarding the litigation without holding a public meeting that complies with the Open Meeting Law. (NRS 241.015) However, the Commission cannot take action regarding the litigation, such as authorizing an appeal in the litigation, unless the Commission takes the action in a public meeting that complies with the Open Meeting Law. (Comm'n on Ethics v. Hansen, 134 Nev. Adv. Op. 40, 419 P.3d 140, 142-43 (2018)).~~

~~Section 9 of this bill allows the Commission to delegate authority to the Chair or the Executive Director, or both, to make decisions regarding any litigation in which the Commission or its members or staff are parties in an official capacity. Sections 9 and 64 of this bill also provide that during any period in which proceedings concerning a request for an advisory opinion or an ethics complaint are confidential under the Ethics Law, the Open Meeting Law does not apply to any meetings, hearings, deliberations or actions of the Commission involving: (1) any decisions in litigation concerning any judicial action or proceeding related to the request for an advisory opinion or the ethics complaint; and (2) any delegation of authority to make such decisions in the litigation to the Chair or the Executive Director, or both.] Section 27 of this bill specifies the powers and duties of the Commission Counsel regarding any litigation in which the Commission or its members or staff are parties in an official capacity. [Section 27 also authorizes the Commission Counsel to file an appeal or seek other appellate relief in the litigation with the consent or ratification of: (1) the Commission; or (2) the Chair or the Executive Director, or both, when the Commission has delegated authority under section 9 to provide such consent or ratification.]~~

Under the Ethics Law, a specialized or local ethics committee may: (1) establish its own code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity; and (2) render opinions upon the request of public officers and employees subject to its jurisdiction seeking an interpretation of its own code of ethical standards on certain questions. However, a specialized or local ethics committee may not attempt to interpret or render an opinion regarding the statutory ethical standards subject to the jurisdiction of the Commission, but it may refer such questions to the Commission. (NRS 281A.350) **Section 31** of this bill clarifies the

circumstances when such questions may be referred to the Commission as a request for an advisory opinion. **Section 31** also makes conforming changes to ensure consistency with the other revisions that this bill makes to the Ethics Law.

The Ethics Law establishes statutory ethical standards that are intended to enhance the people's faith in the integrity and impartiality of public officers and employees by requiring appropriate separation between the roles of persons who are both public servants and private citizens in order to avoid conflicts between their private interests and the interests of the general public whom they serve. (NRS 281A.020, 281A.400-281A.550) **Sections 5, 6, 11, 18 and 32-38** of this bill make various changes to the statutory ethical standards.

**Sections 5 and 6** of this bill restate more clearly the existing scope of the statutory ethical standards and their applicability to the conduct of current and former public officers and employees. **Section 6** also codifies the existing rule of construction that the standards are cumulative and supplement each other and all such standards are enforceable to the extent that they apply to the given set of facts and circumstances.

The Ethics Law prohibits public officers and employees from engaging in certain unethical conduct that benefits themselves, any business entities in which they have a significant pecuniary interest or any persons to whom they have a commitment in a private capacity. (NRS 281A.400, 281A.420) The Ethics Law defines the persons to whom public officers and employees have a "commitment in a private capacity" to include: (1) the spouse or domestic partner of the public officer or employee, any member of his or her household or any relative within the third degree of consanguinity or affinity; (2) any person who employs the public officer or employee, his or her spouse or domestic partner or any member of his or her household; (3) any person with whom the public officer or employee has a substantial and continuing business relationship; or (4) any person with whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to the foregoing commitments, interests or relationships. (NRS 281A.065) **Section 18** of this bill makes technical and stylistic revisions to the definition of "commitment in a private capacity" that do not change its substantive meaning.

The Ethics Law prohibits public officers and employees from using their position in government to secure or grant any unwarranted privileges, preferences, exemptions or advantages for themselves, any business entities in which they have a significant pecuniary interest or any persons to whom they have a commitment in a private capacity. (NRS 281A.400) **Section 11** of this bill adds to the statutory ethical standards by prohibiting public officers and employees from using their position or power in government to take any actions or compel a subordinate to take any actions that a reasonable person would find, based on the given set of facts and circumstances, to be a gross or unconscionable abuse of official position or power that would undermine the integrity or impartiality of a reasonable person in the public officer's or

employee's position under the same or similar facts and circumstances. However, the prohibition in **section 11** does not apply to any allegations claiming only bias, error or abuse of discretion in any actions taken by public officers and employees within the normal course and scope of their position or power in government.

The Ethics Law contains a general provision that prohibits public officers and employees from using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officers and employees or any persons to whom they have a commitment in a private capacity. By contrast, the Ethics Law also contains a specific provision that prohibits State Legislators from using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the Legislators or any other persons. Both of these prohibitions contain separate limited-use exceptions that allow a limited use of governmental property, equipment or other facility for personal purposes if the limited use meets certain requirements. (NRS 281A.400) **Section 32** of this bill revises these prohibitions and limited-use exceptions in several ways.

First, **section 32** of this bill aligns the prohibitions so they employ the same prohibitive language for Legislators and other public officers and employees. As a result, subject to the limited-use exceptions, **section 32** prohibits all public officers and employees from using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officers and employees or any persons to whom they have a commitment in a private capacity.

Second, with regard to the limited-use exceptions that apply to public officers and employees other than Legislators, one of the existing requirements for the exceptions is that the public officer or employee who is responsible for and has authority to authorize the limited use for personal purposes must have established a policy allowing the limited use. **Section 32** of this bill clarifies the exception by providing that the limited use must be authorized by a written policy which was adopted before the limited use occurs.

Finally, with regard to the limited-use exceptions that apply to Legislators and other public officers and employees, one of the existing requirements for the exceptions is that the limited use for personal purposes must not create the appearance of impropriety. **Section 32** of this bill defines the term "appearance of impropriety" ~~as a perception by~~ **to mean** a reasonable person ~~that~~ **would find**, based on the given set of facts and circumstances, **that** the limited use for personal purposes is inappropriate, disproportionate, excessive or unreasonable under that given set of facts and circumstances.

With certain exceptions, the Ethics Law prohibits public officers and employees from acting upon a matter in which their personal or private interests may create potential conflicts of interests unless, at the time the matter is considered, they make a disclosure that is sufficient to inform the public of their potential conflicts of interests. (NRS 281A.420) **Section 34** of this bill provides that, when public officers and employees make such a public

disclosure, they are not required to disclose any information which is confidential as a result of a bona fide relationship that protects the confidentiality of the information under the terms of a contract or as a matter of law, such as the attorney-client relationship, if they: (1) disclose all nonconfidential information and describe the general nature of the protected relationship; and (2) abstain from acting upon the matter.

The Ethics Law allows certain public officers to represent or counsel private persons for compensation before state or local agencies in which they do not serve. In addition, although the Ethics Law requires public officers to disclose such private representation or counseling when it may create potential conflicts of interests with their public duties, they are not required to abstain from acting on a matter because of those potential conflicts of interests. (NRS 281A.410, 281A.420) **Section 34** of this bill requires public officers to abstain from acting on a matter under certain circumstances when such private representation or counseling results in conflicts of interests with their public duties.

With certain exceptions, the Ethics Law prohibits public officers and employees from bidding on or entering into government contracts between any business entities in which they have a significant pecuniary interest and any state or local agencies. The Ethics Law contains several exceptions to the contracting prohibition, including an exception for certain contracts that are awarded by competitive selection. The Ethics Law also allows the Commission to grant relief from the strict application of the contracting prohibition in specified circumstances. (NRS 281A.430) **Section 35** of this bill revises the contracting prohibition to provide that, with certain exceptions, public officers and employees cannot, directly or through a third party, negotiate, bid on, enter into, perform, modify or renew any government contracts between: (1) the public officers and employees or any business entities in which they have a significant pecuniary interest; and (2) an agency in which they serve or an agency that has any connection, relation or affiliation with an agency in which they serve. **Section 35** also makes conforming changes to the existing exceptions and adds a new exception for certain contracts that, by their nature, are not adapted to be awarded by competitive selection.

With certain exceptions, the Ethics Law prohibits public officers and employees from accepting or receiving an honorarium to make a speech or appearance in their official capacity but allows: (1) the payment of costs incurred by a public officer or employee, his or her aide or his or her spouse for transportation, lodging and meals while away from the public officer's or employee's residence to make such a speech or appearance; and (2) the receipt of an honorarium by a spouse when it is related to the spouse's profession or occupation. (NRS 281A.510) **Section 37** of this bill clarifies that the exceptions which apply to a spouse also apply to a domestic partner.

The Ethics Law prohibits certain former public officers and employees, for a 1-year "cooling-off" period after the termination of their public service or employment, from soliciting or accepting private employment from any



entities regulated or awarded certain contracts by the agencies that employed the former public officers and employees. However, the Ethics Law also allows the Commission to grant relief from the strict application of the prohibition in specified circumstances. (NRS 281A.550) **Section 38** of this bill provides that certain current and former public officers and management-level public employees are subject to the “cooling-off” period both during and after their public service or employment and cannot solicit or accept private employment from such entities under similar circumstances. **Section 38** also provides that the “cooling-off” period applies when certain current and former public officers and employees are or were materially involved in the implementation, management or administration of certain contracts awarded by their employing agencies.

The Ethics Law requires public officers to execute and timely file with the Commission written acknowledgments that they have received, read and understand the statutory ethical standards and that they have a responsibility to become familiar with any amendments to those standards. (NRS 281A.500) **Section 11.5** of this bill requires the appropriate appointing authorities and administrative officials at the state and local level to: (1) compile a list of the public officers within their purview who must file the written acknowledgment of the statutory ethical standards; and (2) submit the list annually to the Commission. Under existing law, these same appointing authorities and administrative officials must compile and submit a similar list annually to the Secretary of State concerning public officers who must file financial disclosure statements with the Secretary of State. (NRS 281.574)

The Ethics Law contains existing provisions which govern the proceedings concerning requests for advisory opinions and ethics complaints and the issuance of opinions and the imposition of remedies and penalties by the Commission. (NRS 281A.665-281A.790) **Sections 3, 4, ~~14~~, 16, 17, 19-22, 28 and 39-62** of this bill make various changes to these existing provisions.

Under the Ethics Law, the Commission issues opinions interpreting the statutory ethical standards and applying those standards to a given set of facts and circumstances. (NRS 281A.680, 281A.710) The Ethics Law also directs the Legislative Counsel to prepare annotations of the Commission’s published opinions for inclusion in NRS. (NRS 281A.290) Under existing legal principles governing administrative procedure, the published opinions of an administrative agency constitute administrative precedents with persuasive value. (*Sears, Roebuck & Co. v. All States Life Ins. Co.*, 246 F.2d 161, 169 (5th Cir. 1957); E. H. Schopler, Annotation, *Applicability of Stare Decisis Doctrine to Decisions of Administrative Agencies*, 79 A.L.R.2d 1126 §§ 4-7 (1961 & Westlaw 2019); 2 Am. Jur. 2d *Administrative Law* § 360 (Westlaw 2019))

**Section 4** of this bill defines “published opinion” as an opinion issued by the Commission that is publicly available on the Internet website of the Commission. **Section 39** of this bill codifies existing legal principles by stating that the Commission’s published opinions constitute administrative precedents with persuasive value. **Sections 29 and 39** of this bill move and recodify

within the Ethics Law the existing provision that directs the Legislative Counsel to prepare annotations of the Commission's published opinions for inclusion in NRS.

The Ethics Law authorizes public officers and employees to file with the Commission requests for advisory opinions to: (1) seek guidance relating to the propriety of their own past, present or future conduct under the statutory ethical standards; or (2) request relief from the strict application of certain provisions of the Ethics Law. (NRS 281A.675) **Section 41** of this bill authorizes the supervisory head or the legal counsel of a public body, agency or employer to file with the Commission a request for an advisory opinion to seek guidance relating to the application of the statutory ethical standards to a hypothetical or general set of facts and circumstances involving one or more particular positions with the public body, agency or employer. **Section 41** also allows the Commission to request additional information relating to a request for an advisory opinion from the requester and certain other specified persons.

If the requester properly files a request for an advisory opinion, the Ethics Law requires the Commission to render an advisory opinion in the matter within a certain time limit after receiving the request, unless the requester waives the time limit. (NRS 281A.680) **Sections 28 and 42** of this bill revise the Commission's jurisdiction and procedures regarding a request for an advisory opinion. Under the Ethics Law, the Commission generally has jurisdiction over ethics complaints filed or initiated within 2 years after the alleged violation or reasonable discovery of the alleged violation. (NRS 281A.280) **Section 28** of this bill similarly provides that the Commission's jurisdiction over a request for an advisory opinion extends only to past conduct occurring within 2 years of the date on which the request is filed. **Section 42** allows the Commission to stay or dismiss the proceedings concerning the request for an advisory opinion under certain circumstances when an ethics complaint is also filed or pending that involves some or all of the same issues or facts and circumstances as the request for an advisory opinion. **Section 42** also requires the Commission to render a decision regarding the request for an advisory opinion within the existing time limit, subject to certain exceptions. However, **section 42** provides the Commission with more time to prepare the written advisory opinion in the matter by requiring the Commission to issue the written advisory opinion within a specified time limit after the decision is rendered. **Section 42 additionally allows the Commission to extend the time limit for good cause, but it must set a specific and reasonable time period for such an extension.**

Under the Ethics Law, certain materials relating to a request for an advisory opinion are confidential and not public records unless the requester: (1) authorizes the Commission to disclose the materials; or (2) voluntarily discloses the materials to persons other than those specified in the statute. (NRS 281A.685) **Section 43** of this bill clarifies that any authorization given by the requester is limited to the specific materials that the requester authorizes the Commission to disclose. **Section 43** also revises the specified persons to

whom the requester may voluntarily disclose the materials without waiving the confidentiality of the materials.

With certain exceptions, the Commission is subject to the Open Meeting Law, which generally requires most meetings of public bodies to be open to the public. (Chapter 241 of NRS) However, under the Ethics Law, the Open Meeting Law does not apply to meetings, hearings, deliberations and actions of the Commission relating to requests for advisory opinions, although the requester of the advisory opinion may file a request with the Commission to hold a public meeting or hearing regarding the matter. (NRS 281A.690) **Section 44** of this bill provides that if the Commission grants such a request for a public meeting or hearing regarding the matter, the Commission must provide public notice of the meeting or hearing and the meeting or hearing must be open to the public and conducted in accordance with the regulations of the Commission, but the meeting or hearing is not subject to specific requirements of the Open Meeting Law.

In addition to rendering advisory opinions, the Commission is also authorized by the Ethics Law to render opinions regarding the propriety of the conduct of public officers and employees under the statutory ethical standards in response to ethics complaints. (NRS 281A.710) Not later than 45 days after receiving an ethics complaint, the Ethics Law requires the Commission to determine initially whether it has jurisdiction over the ethics complaint and whether an investigation is warranted in the matter, unless the subject of the ethics complaint waives the time limit. (NRS 281A.715) **Section 48** of this bill authorizes the Executive Director, during this initial period, to conduct a preliminary investigation to obtain additional information concerning the allegations in the ethics complaint to assist the Commission in making its initial determination. In addition, **section 48**: (1) allows the Commission to extend the time limit for good cause ~~if~~, **but it must set a specific and reasonable time period for such an extension;** and (2) eliminates, as unnecessary, the provision authorizing the subject to waive the time limit because the subject does not receive notice of the matter during this initial period, but only receives notice of the matter if the Commission determines that it has jurisdiction and an investigation is warranted. **Section 48** also allows the Commission to dismiss an ethics complaint initiated on its own motion if it determines that the evidence is not sufficient to warrant an investigation in the matter but requires the Commission to issue a letter of caution or instruction in those circumstances.

Under the Ethics Law, if the Commission determines that it has jurisdiction over an ethics complaint and an investigation is warranted, the subject of the ethics complaint is served with a notice of the investigation and provided with an opportunity to submit a response to that notice ~~if~~ **within a specified time limit.** (NRS 281A.720) **Section 49 of this bill provides that the Executive Director may grant, under certain circumstances, extensions of the time limit to submit the response, but the Executive Director must set a specific and reasonable time period for such an extension.**

\_\_As part of the investigation, the Ethics Law permits the Executive Director to secure the subject's participation, attendance as a witness or production of books and papers under existing procedures. (NRS 281A.300) **Section 49** of this bill clarifies that, regardless of whether the subject submits a response to the investigation, the Executive Director retains the authority during the course of the investigation to secure the subject's participation, attendance as a witness or production of books and papers under those existing procedures.

Within 70 days after the Commission directs the Executive Director to investigate an ethics complaint, the Ethics Law requires the Executive Director to present a written recommendation to the review panel regarding the sufficiency of the evidence concerning the ethics complaint, unless the subject waives the time limit. (NRS 281A.725) **Section 50** of this bill allows the presiding officer of the review panel to grant the Executive Director extensions of the time limit for good cause ++, **but the presiding officer must set a specific and reasonable time period for such an extension.**

Within 15 days after the Executive Director presents the written recommendation to the review panel, the Ethics Law requires the review panel to determine whether there is just and sufficient cause for the Commission to render an opinion regarding the ethics complaint, unless the subject waives the time limit. If the review panel determines that there is not just and sufficient cause, the Ethics Law requires the review panel to dismiss the matter, but the review panel may issue a confidential letter of caution or instruction to the subject as part of the dismissal. If the review panel determines that there is just and sufficient cause but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action, the Ethics Law authorizes the review panel to approve a deferral agreement between the Executive Director and the subject to defer further proceedings in the matter under the terms and conditions of the deferral agreement. If the subject complies with the terms and conditions of the deferral agreement, the matter must be dismissed. However, if the subject fails to comply with the terms and conditions of the deferral agreement, the deferral agreement may be vacated and further proceedings conducted in the matter before the Commission. If the review panel does not believe that a deferral agreement is appropriate or if the subject declines to enter into such a deferral agreement, the Ethics Law requires the review panel to refer the matter to the Commission for further proceedings. (NRS 281A.730, 281A.740)

**Section 51** of this bill provides that after the review panel makes its determination in the matter, it must serve written notice of its determination on the subject. **Sections 51 and 52** of this bill further provide that if the review panel authorizes the development of a deferral agreement, the review panel must specify in its written notice a time limit within which the deferral agreement must be developed, but the review panel may grant extensions of the time limit for good cause ++, **so long as it sets a specific and reasonable time period for such an extension.** Finally, **section 51** provides that if the deferral agreement is not developed within the time limit, or any extension

thereof, the review panel must refer the matter to the Commission for further proceedings.

The Ethics Law establishes various requirements regarding the adjudication of ethics complaints referred to the Commission for further proceedings. (NRS 281A.745-281A.760) **Sections 3 and 53** of this bill clarify that the parties to the proceedings are: (1) the Executive Director or his or her designee who present the case to the Commission at the adjudicatory hearing in the matter; and (2) the subject of the ethics complaint who has the right to written notice of the hearing, to be represented by legal counsel and to hear the evidence presented to the Commission and to present his or her own case. **Section 53** also requires the Commission to provide the parties with a written schedule for discovery in order to prepare for the hearing.

The Ethics Law requires the Commission to hold the hearing and render an opinion in the matter within a certain time limit, unless waived by the subject, and the Ethics Law requires the opinion to include findings of fact and conclusions of law. (NRS 281A.745, 281A.765) **Section 53** of this bill requires the Commission to render a decision in the matter within the existing time limit, unless waived by the subject, but **section 53** provides the Commission with more time to prepare the written opinion in the matter by requiring the Commission to issue the written opinion within a specified time limit after the decision is rendered. **Section 53 additionally allows the Commission to extend the time limit for good cause, but it must set a specific and reasonable time period for such an extension.** **Sections 53 and 57** of this bill also clarify that, in addition to including findings of fact and conclusions of law, the written opinion must otherwise comply with the requirements for a final decision under Nevada's Administrative Procedure Act. (NRS 233B.125)

With certain exceptions, the Ethics Law requires, or in some cases allows, the Commission to keep the identity of certain persons who file ethics complaints confidential in order to protect those persons from potential harm. (NRS 281A.750) **Section 54** of this bill clarifies that such confidentiality extends to all materials that, if disclosed, would reveal the identity of the confidential requester. **Section 54** also clarifies that the identity of the confidential requester remains protected if the Executive Director does not intend to present the testimony of the confidential requester as evidence in the matter. However, if the Executive Director intends to present the testimony of the confidential requester as evidence in the matter, **section 54** provides that the Executive Director must disclose the name of the confidential requester only as a proposed witness in accordance with the schedule for discovery in the matter.

Under the Ethics Law, the subject of an ethics complaint may submit a written discovery request for a list of proposed witnesses and a copy of any materials in the investigative file that the Executive Director intends to present as evidence in the matter. The Ethics Law also provides that the materials in the investigative file are confidential, except that any materials which the Executive Director presents as evidence in the matter become public records.

(NRS 281A.755) **Section 55** of this bill requires any written discovery request to be submitted in accordance with the schedule for discovery in the matter. **Section 55** also provides that any materials which the Executive Director presents as evidence in the matter become public records after the Commission takes final action concerning the ethics complaint in a public meeting or hearing held under **section 56** of this bill.

In proceedings concerning an ethics complaint, the Ethics Law exempts from the Open Meeting Law: (1) any meeting or hearing held by the Commission to receive information or evidence concerning the ethics complaint; and (2) any deliberations of the Commission on such information or evidence. However, the Ethics Law does not exempt the Commission's actions concerning the ethics complaint from the Open Meeting Law. (NRS 281A.760) **Section 56** of this bill generally exempts the Commission's actions concerning the ethics complaint from the Open Meeting Law. However, **section 56** requires the Commission to take final action concerning the ethics complaint in a public meeting or hearing for which the Commission provides public notice and which is open to the public and conducted in accordance with the regulations of the Commission, but the meeting or hearing is not subject to specific requirements of the Open Meeting Law.

The Ethics Law establishes various requirements regarding the disposition of ethics complaints and the imposition of remedies and penalties. (NRS 281A.765-281A.790) Under the Ethics Law, there are two types of violations: (1) willful violations that require proof of specific mental elements showing that the subject of an ethics complaint committed the violations intentionally and knowingly; and (2) other violations that do not require proof of those specific mental elements. (NRS 281A.170) To determine whether violations are willful, the Ethics Law requires the Commission to: (1) consider a nonexclusive list of aggravating and mitigating factors, as well as any other reasonably related factors; and (2) ensure when it applies those factors that the disposition of the matter bears a reasonable relationship to the severity of the violations. (NRS 281A.775) For any violations, whether or not willful, the Ethics Law authorizes the Commission to impose certain remedies, such as training, a remedial course of action or public admonishment. (NRS 281A.785) However, for willful violations, the Ethics Law also authorizes more severe remedies and penalties, such as substantial civil penalties and public reprimand or censure. In some cases involving willful violations, the Ethics Law further requires the Commission to seek removal of certain public officers through court proceedings or to submit the matter to the appropriate House of the Legislature for consideration of additional remedies and penalties against certain public officers, including removal through impeachment or expulsion. (NRS 281A.785, 281A.790)

**Sections 22, 59, 61 and 62** of this bill eliminate the category of willful violations and revise and clarify some of the existing remedies and penalties under the Ethics Law. First, **section 22** of this bill defines the term "violation" to provide that all violations of the Ethics Law require proof of specific mental

elements showing that the subject of an ethics complaint committed the violations intentionally and knowingly. If the Commission determines that such violations have been proven, **sections 59, 61 and 62** of this bill require the Commission to determine which of the less or more severe remedies and penalties to impose against the subject for those violations by: (1) considering the existing nonexclusive list of aggravating and mitigating factors, as well as any other reasonably related factors; and (2) ensuring when it applies those factors that the disposition of the matter bears a reasonable relationship to the severity of the violations. **Section 62** of this bill also clarifies that in determining whether the subject has committed one or more violations, each separate act or event that constitutes a violation must be treated as a separate violation that is cumulative to all other violations, whenever committed, without regard to the sequence of the violations or whether the violations are established in the same or separate proceedings. **Section 62** additionally revises the types of violations that authorize or require the Commission to pursue judicial removal proceedings or to refer the matter to the appropriate House of the Legislature or the appropriate public employer for possible disciplinary action. Finally, as part of the existing remedies and penalties, the Commission may express its official disapproval, reproof or condemnation of violations by using public admonishment, reprimand or censure depending on the degree of willfulness or severity of the violations. (NRS 281A.785) **Section 61** of this bill eliminates public admonishment and censure as potential sanctions but retains public reprimand as the Commission's means for officially rebuking violations.

The Ethics Law prohibits any person from preventing, interfering with or attempting to prevent or interfere with investigations or proceedings or the discovery of violations under the Ethics Law and authorizes the Commission to impose civil penalties and, under certain circumstances, assess against such a person certain attorney's fees and costs incurred by others as a result of the act. (NRS 281A.790) **Sections 28 and 62** of this bill: (1) deem the person's act to be a violation of the Ethics Law; (2) specify that the Commission has jurisdiction to investigate and take appropriate action regarding the violation in any proceeding commenced within 2 years after the violation or reasonable discovery thereof; and (3) require the Commission, before taking appropriate action, to provide the person with a written notice of the charges and an opportunity for a hearing in accordance with the regulations of the Commission. **Section 62** also authorizes the Commission, under certain circumstances, to assess against the person certain attorney's fees and costs incurred by the Commission as a result of the violation.

~~Under the Nevada Constitution, each House of the Legislature has certain plenary and exclusive constitutional powers, including powers to discipline members for certain unethical legislative conduct, which may be exercised only by that House and which cannot be usurped, infringed or impaired by the other House or by any other branch of Nevada's State Government. (Nev. Const. Art. 3, § 1, Art. 4, § 6; Heller v. Legislature, 120 Nev. 456 (2004)).~~

~~Comm'n on Ethics v. Hardy, 125 Nev. 285 (2009); Mason's Manual of Legislative Procedure §§ 560-564 (2010)). Furthermore, under the constitutional doctrines of separation of powers and legislative privilege and immunity, Legislators have the constitutional right to be protected from having to defend themselves, from being held liable and from being questioned or sanctioned by the other branches in administrative or judicial proceedings for speech, debate, deliberation and other actions performed within the sphere of legitimate legislative activity. (Nev. Const. Art. 3, § 1, Art. 4, § 6; NRS 41.071; Bogan v. Scott-Harris, 523 U.S. 44, 54 (1998) ("Absolute legislative immunity attaches to all actions taken 'in the sphere of legitimate legislative activity.'"; quoting Tenney v. Brandhove, 341 U.S. 367, 376 (1951))); Guinn v. Legislature (Guinn II), 119 Nev. 460, 472 (2003) ("Under the separation of powers doctrine, individual legislators cannot, nor should they, be subject to fines or other penalties for voting in a particular way."); Steiner v. Superior Court, 58 Cal. Rptr. 2d 668, 678 n.20 (Cal. Ct. App. 1996) ("The California separation of powers provision, however, provides a sufficient ground to protect legislators from punitive action that unduly impinges on their function."); Luther S. Cushing, Elements of the Law & Practice of Legislative Assemblies §§ 601-603 (1856); 1 Joseph Story, Commentaries on the Constitution of the United States § 866 (5th ed. 1905); Thomas M. Cooley, A Treatise on Constitutional Limitations 929 (8th ed. 1927)) As a result, under the Ethics Law, the Commission cannot exercise jurisdiction or authority over or inquire into, intrude upon or interfere with the functions of a Legislator that are protected by legislative privilege and immunity. (NRS 281A.020)~~

~~Section 14 of this bill provides that if the Commission determines at any time during proceedings concerning an ethics complaint against a Legislator that any allegations in the ethics complaint are within the jurisdiction or authority of the Legislator's House, and not within the Commission's jurisdiction or authority, the Commission may authorize the Executive Director to file a complaint with the Legislator's House alleging a breach of legislative ethical standards under the House's standing rules. Sections 14 and 63 of this bill also acknowledge that such a complaint filed with the Legislator's House and all materials related to the allegations in the complaint are confidential and are not public records, unless those materials become publicly available in a manner authorized by the House's standing rules.]~~

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

**Section 1.** Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~14~~ **11**, inclusive, of this act.

**Sec. 2. "Chair" means:**

1. *The Chair of the Commission; or*
2. *The Vice Chair or another member of the Commission serving in the capacity of the Chair pursuant to NRS 281A.210.*



Sec. 3. "Party" means, for the purposes of the adjudication and disposition of proceedings concerning an ethics complaint pursuant to this chapter:

1. The Executive Director or his or her designee; and
2. The public officer or employee who is the subject of the ethics complaint.

Sec. 4. "Published opinion" means an opinion issued by the Commission that is publicly available on the Internet website of the Commission.

Sec. 5. "Statutory ethical standards" means the statutory ethical standards set forth in the provisions of this chapter.

Sec. 6. 1. The provisions of this chapter establish statutory ethical standards to govern the conduct of:

- (a) Public officers and employees; and
- (b) Former public officers and employees in situations where the statutory ethical standards apply to the conduct of former public officers and employees after the end of any period of public service or employment.

2. The statutory ethical standards are cumulative and supplement each other, and the application of any one of the statutory ethical standards to a given set of facts and circumstances does not bar the application of any other of the statutory ethical standards that also apply to the given set of facts and circumstances.

Sec. 7. ~~1. Every public officer or employee of the State or one of its political subdivisions, regardless of whether he or she is otherwise subject to the provisions of this chapter, shall cooperate with the Commission in any lawful investigations or proceedings of the Commission and furnish information and reasonable assistance to the Commission or its authorized representative, except to the extent that the public officer or employee is entitled to:~~

~~(a) Any right, privilege or immunity recognized by law, other than any common-law privilege or immunity abrogated pursuant to NRS 281A.185;~~

~~(b) Any confidentiality or other protection recognized by law.~~

~~2. If a public officer or employee is entitled to any protection pursuant to paragraph (a) or (b) of subsection 1, that protection extends only to matters within the scope of the protection, and the public officer or employee shall comply with the provisions of subsection 1 to the fullest extent possible regarding all matters outside of the scope of the protection.~~

~~3. Before a public officer or employee is required to comply with the provisions of subsection 1 and during the course of any investigations or proceedings of the Commission or its authorized representative, the public officer or employee is entitled to be represented by and consult with legal counsel, including, without limitation, the legal counsel of his or her public body, agency or employer.] (Deleted by amendment.)~~

Sec. 8. (Deleted by amendment.)

~~Sec. 9. 1. In carrying out the provisions of this chapter, the Commission may delegate authority to the Chair or the Executive Director, or both, to make any decisions in litigation concerning any judicial action or proceeding in which the Commission or any member or employee of the Commission is a party in an official capacity or participates or intervenes in an official capacity.~~

~~2. During any period in which proceedings concerning a request for an advisory opinion or an ethics complaint are confidential pursuant to this chapter, the provisions of chapter 241 of NRS do not apply to any meeting or hearing held by the Commission or any deliberations or actions of the Commission involving:~~

~~(a) Any decisions in litigation concerning any judicial action or proceeding related to the request for an advisory opinion or the ethics complaint; or~~

~~(b) Any delegation of authority to make such decisions in the litigation to the Chair or the Executive Director, or both, pursuant to subsection 1.]~~

~~(Deleted by amendment.)~~

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. A public officer or employee shall not use the public officer's or employee's position or power in government to take any actions or compel a subordinate to take any actions that a reasonable person would find, based on the given set of facts and circumstances, to be a gross or unconscionable abuse of official position or power that would undermine the integrity or impartiality of a reasonable person in the public officer's or employee's position under the same or similar facts and circumstances.

2. The provisions of this section must not be interpreted to apply to any allegations claiming only bias, error or abuse of discretion in any findings, decisions, policy-making or other actions taken by a public officer or employee within the normal course and scope of his or her position or power in government.

Sec. 11.5. A list of each public officer who is required to file an acknowledgment of the statutory ethical standards in accordance with NRS 281A.500 must be submitted electronically to the Commission, in a form prescribed by the Commission, on or before December 1 of each year by:

1. For an appointed public officer, the appointing authority of the public officer, including, without limitation:

(a) The manager of each local agency for a public officer of a local agency;

(b) The Director of the Legislative Counsel Bureau for a public officer of the Legislative Department of the State Government; and

(c) The Director of the Department of Administration, or his or her designee, for a public officer of the Executive Department of the State Government; and

2. For an elected public officer of:

(a) *The county and other political subdivisions within the county except cities, the county clerk;*

(b) *The city, the city clerk;*

(c) *The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and*

(d) *The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.*

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. ~~Notwithstanding any other provisions of NRS 281A.700 to 281A.790, inclusive:~~

~~1. If a State Legislator is the subject of an ethics complaint and the Commission determines, at any time during the proceedings concerning the ethics complaint, that any allegations in the ethics complaint involve actions of the Legislator that are not within the jurisdiction or authority of the Commission pursuant to paragraph (d) of subsection 2 of NRS 281A.020 but are within the jurisdiction or authority of the Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission may authorize the Executive Director to file a complaint with the House alleging a breach of legislative ethical standards pursuant to the applicable Standing Rules of the Legislative Department of the State Government.~~

~~2. If the Executive Director files a complaint with the Legislator's own House pursuant to this section:~~

~~(a) The Executive Director shall submit to the House all information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the allegations in the complaint filed with the House; and~~

~~(b) The complaint filed with the House and all information, communications, records, documents or other materials that are related to the allegations in the complaint filed with the House are confidential and are not public records pursuant to chapter 239 of NRS, unless those materials become publicly available in a manner authorized by the applicable Standing Rules of the Legislative Department of the State Government.] (Deleted by amendment.)~~

Sec. 15. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.032 to 281A.170, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 281A.032 is hereby amended to read as follows:

281A.032 "Adjudicatory hearing" means a hearing held by the Commission pursuant to NRS 281A.745 to receive evidence *and render a decision* concerning an ethics complaint. ~~and render an opinion in the matter.]~~

**Sec. 17.** NRS 281A.033 is hereby amended to read as follows:

281A.033 “Advisory opinion” means an advisory opinion ~~rendered~~ **issued** by the Commission pursuant to NRS 281A.670 to 281A.690, inclusive.

**Sec. 18.** NRS 281A.065 is hereby amended to read as follows:

281A.065 “Commitment in a private capacity ” ~~with respect to the interests of another person,~~ means a **private** commitment, interest or relationship of a public officer or employee to : ~~a person;~~

1. ~~Who is the~~ **The** spouse or domestic partner of the public officer or employee;
2. ~~Who is a~~ **A** member of the household of the public officer or employee;
3. ~~Who is related to~~ **A relative of** the public officer or employee, or ~~to~~ the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. ~~Who employs~~ **The employer of** the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. ~~With~~ **A person with** whom the public officer or employee has a substantial and continuing business relationship; or
6. ~~With~~ **A person with** whom the public officer or employee has any other **private** commitment, interest or relationship that is substantially similar to a **private** commitment, interest or relationship described in subsections 1 to 5, inclusive.

**Sec. 19.** NRS 281A.088 is hereby amended to read as follows:

281A.088 “Ethics complaint” means ~~a request for an opinion~~ **an ethics complaint** which is filed with the Commission or initiated by the Commission on its own motion pursuant to NRS 281A.710 regarding the propriety of the conduct of a public officer or employee under the statutory ethical standards . ~~set forth in this chapter.~~

**Sec. 20.** NRS 281A.135 is hereby amended to read as follows:

281A.135 1. “Opinion” means an opinion ~~rendered~~ **issued** by the Commission in accordance with the provisions of this chapter.

2. The term includes, without limitation, the disposition of an ethics complaint by stipulation, agreed settlement, consent order or default as authorized by NRS 233B.121.

**Sec. 21.** NRS 281A.161 is hereby amended to read as follows:

281A.161 “Request for an advisory opinion” means a request for an advisory opinion which is filed with the Commission pursuant to NRS 281A.675 . ~~by a public officer or employee who is:~~

- ~~1. Seeking guidance on matters which directly relate to the propriety of his or her own past, present or future conduct as a public officer or employee under the statutory ethical standards set forth in this chapter; or~~
- ~~2. Requesting relief pursuant to NRS 281A.410, 281A.430 or 281A.550.~~

**Sec. 22.** NRS 281A.170 is hereby amended to read as follows:

281A.170 ~~["Willful violation"]~~ **"Violation"** means a violation where the public officer or employee:

1. Acted intentionally and knowingly; or
2. Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter. ~~†~~

~~→ unless the Commission determines, after applying the factors set forth in NRS 281A.775, that the public officer's or employee's act or failure to act has not resulted in a sanctionable violation of this chapter.†~~

**Sec. 23.** NRS 281A.210 is hereby amended to read as follows:

281A.210 1. The Commission shall ~~†~~

~~(a) At†, at its first meeting and annually thereafter, elect a Chair and Vice Chair from among its members.~~

~~†(b) Meet†~~

*2. If the Chair is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Vice Chair shall exercise the powers and functions and perform the duties of the Chair concerning that particular matter. If the Chair and Vice Chair are prohibited from acting on a particular matter or are otherwise unable to act on a particular matter, another member of the Commission who is designated in accordance with the regulations of the Commission shall exercise the powers and functions and perform the duties of the Chair concerning that particular matter.*

*3. The Commission shall meet* regularly at least once in each calendar quarter, unless there are no ethics complaints or requests for advisory opinions pursuant to this chapter, and at other times upon the call of the Chair.

~~†2.†~~ *4.* Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.

~~†3.†~~ *5.* While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

~~†4.†~~ *6.* The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.

**Sec. 24.** NRS 281A.220 is hereby amended to read as follows:

281A.220 1. The Chair shall appoint one or more review panels of three members of the Commission on a rotating basis to perform the functions assigned to such review panels pursuant to this chapter.

2. The Chair and Vice Chair of the Commission may not serve together on a review panel.

3. Not more than two members of a review panel may be members of the same political party.

4. If a review panel determines that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in a matter, the

members of the review panel shall not participate in any further proceedings of the Commission relating to that matter ~~†~~, *except that:*

(a) *One or more members of the review panel may, with the consent of the parties, participate as mediators or facilitators in any settlement negotiations between the parties that are conducted before an adjudicatory hearing in the matter.*

(b) *The members of the review panel may authorize the development of or approve a deferral agreement pursuant to NRS 281A.730.*

Sec. 25. ~~NRS 281A.230 is hereby amended to read as follows:~~

~~281A.230 1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties set forth in this chapter and such other duties as may be prescribed by the Commission.~~

~~2. The Executive Director must **be an attorney who is licensed to practice law in this State and must** have experience in administration, investigations and law.~~

~~3. The Executive Director is in the unclassified service of the State.~~

~~4. The Executive Director shall devote the Executive Director's entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of the Executive Director's duties.~~

~~5. The Executive Director may not:~~

~~(a) Be actively involved in the work of any political party or political campaign; or~~

~~(b) Except in pursuit of the business of the Commission, communicate directly or indirectly with a State Legislator or a member of a local legislative body on behalf of someone other than the Executive Director to influence:~~

~~(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or~~

~~(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:~~

~~(I) The appropriation of public money;~~

~~(II) The issuance of a license or permit; or~~

~~(III) Any proposed subdivision of land or special exception or variancee from zoning regulations.† **(Deleted by amendment.)**~~

Sec. 26. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive ethics complaints and requests for advisory opinions pursuant to this chapter.

(c) Gather information and conduct investigations regarding ethics complaints and requests for advisory opinions pursuant to this chapter.

(d) ~~Submit~~ **Present** recommendations to the review panel regarding whether there is just and sufficient cause for the Commission to render **a decision and issue** an opinion in a matter.

(e) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(f) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and ~~previous~~ **the published** opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(g) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

- (a) The administration of the affairs of the Commission; and
- (b) The investigation of matters under the jurisdiction of the Commission.

3. If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair ~~of the Commission~~ shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.

**Sec. 27.** NRS 281A.260 is hereby amended to read as follows:

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each **written** opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission ~~+~~ **or as required pursuant to this chapter**, the appropriate findings of fact and conclusions as to **the** relevant **statutory ethical** standards and the propriety of particular conduct. The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. **Except as otherwise provided in this section or directed by the Commission, in litigation concerning any judicial action or proceeding in which the Commission or any member or employee of the Commission is a party in an official capacity or participates or intervenes in an official capacity, the Commission Counsel ~~+~~**

~~(a) Shall~~ **shall represent and act as legal counsel to the Commission or any member or employee of the Commission in the action or proceeding ~~+~~**

~~(b) May commence, prosecute, defend, participate or intervene in the action or proceeding on behalf of the Commission or any member or employee of the Commission; and~~

~~(c) May file an appeal or petition for or seek any writ or other appellate relief in the action or proceeding on behalf of the Commission or any member or employee of the Commission with the consent or ratification of:~~

~~(1) The Commission; or~~

~~(2) The Chair or the Executive Director, or both, if the authority to provide such consent or ratification is delegated pursuant to section 9 of this act.~~

4. The provisions of subsection 3 do not apply to litigation concerning any judicial action or proceeding in which the Commission:

(a) Requests that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employs outside legal counsel.

5. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

**Sec. 28.** NRS 281A.280 is hereby amended to read as follows:

281A.280 1. Except as otherwise provided in this section, the Commission has jurisdiction to ~~investigate~~:

(a) *Gather information and issue an advisory opinion in any proceeding commenced by a request for an advisory opinion that is filed with the Commission, except that the Commission does not have jurisdiction to issue an advisory opinion on matters which directly relate to the propriety of past conduct occurring more than 2 years before the date on which the request for an advisory opinion is filed with the Commission.*

(b) *Investigate and take appropriate action regarding an alleged violation of this chapter by a ~~public officer or employee~~ current or former public officer or employee in any proceeding commenced by an ethics complaint, which is filed with the Commission or initiated by the Commission on its own motion, within 2 years after the alleged violation or reasonable discovery of the alleged violation.*

(c) *Investigate and take appropriate action regarding an alleged violation of subsection 3 of NRS 281A.790 by a current or former public officer or employee or any other person in any proceeding commenced by a written notice of the charges, which is initiated by the Commission on its own motion, within 2 years after the alleged violation or reasonable discovery of the alleged violation.*

2. The Commission does not have jurisdiction regarding alleged conduct by a ~~public officer or employee~~ current or former public officer or employee for which:



(a) A complaint may be filed or, if the applicable limitations period has expired, could have been filed with the United States Equal Employment Opportunity Commission or the Nevada Equal Rights Commission; or

(b) A complaint or employment-related grievance may be filed or, if the applicable limitations period has expired, could have been filed with another appropriate agency with jurisdiction to redress alleged discrimination or harassment, including, without limitation, a state or local employee-management relations board or similar state or local agency,

↳ but any bar on the Commission's jurisdiction imposed by this subsection applies only to the extent that it pertains to the alleged discrimination or harassment, and this subsection does not deprive the Commission of jurisdiction regarding the alleged conduct if such conduct is sanctionable separately or concurrently under the provisions of this chapter, irrespective of the alleged discrimination or harassment.

3. For the purposes of this section, a proceeding is commenced ~~[-]~~ **by an ethics complaint:**

(a) On the date on which ~~[-]~~ **the** ethics complaint is filed in the proper form with the Commission in accordance with the regulations of the Commission; or

(b) If the ethics complaint is initiated by the Commission on its own motion, on the date on which the Commission serves the ~~[-]~~ **current** or former public officer or employee with **a written** notice of the **investigation of the** ethics complaint in accordance with the regulations of the Commission.

**Sec. 29.** NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations that are necessary and proper to carry out the provisions of this chapter, including, without limitation:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of an ethics complaint or a request for an advisory opinion with the Commission;

(c) For the withdrawal of an ethics complaint or a request for an advisory opinion by the person who filed the ethics complaint or request;

(d) To facilitate the prompt rendition **of decisions and the issuance** of opinions by the Commission; and

(e) For proceedings concerning an ethics complaint, to facilitate written discovery requests submitted pursuant to NRS 281A.750 and 281A.755 and the disclosure of evidence in the manner required by those sections, including, without limitation, the disclosure of evidence obtained by or on behalf of the Executive Director during the course of the investigation that affirmatively and substantively disproves any alleged violation of this chapter that is related to the ethics complaint and has been referred to the Commission for an adjudicatory hearing.

2. Prescribe, by regulation, forms and procedures for the submission of ~~[-]~~ **acknowledgments of the statutory ethical**

*standards* filed by public officers pursuant to NRS 281A.500, maintain files of such ~~{statements}~~ *acknowledgments* and make the ~~{statements}~~ *acknowledgments* available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition *of decisions and the issuance* of ~~{its}~~ opinions pursuant to this chapter.

4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that explains the requirements of this chapter.

~~{The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the published opinions of the Commission.}~~

**Sec. 30.** NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chair ~~{and Vice Chair}~~ *or a member* of the Commission *appointed by the Chair to preside over any meetings, hearings and proceedings* may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission.

3. Upon the request of the Executive Director, the Chair ~~{or, in the Chair's absence, the Vice Chair,}~~ may issue a subpoena to compel the participation of a potential witness and the production of any books and papers during the course of any investigation.

4. Upon the request of the Executive Director or the public officer or employee who is the subject of an ethics complaint, the Chair ~~{or, in the Chair's absence, the Vice Chair,}~~ may issue a subpoena to compel the attendance of a witness and the production of any books and papers for any hearing before the Commission. A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.

5. Before ~~{issuing}~~ *the Chair issues* a subpoena *directed* to ~~{at}~~ *the* public officer or employee who is the subject of an ethics complaint to compel his or her participation in any investigation, his or her attendance as a witness or his or her production of any books and papers, the Executive Director shall submit a written request to the public officer or employee requesting:

(a) The voluntary participation of the public officer or employee in the investigation;

(b) The voluntary attendance of the public officer or employee as a witness;

or

(c) The voluntary production by the public officer or employee of any books and papers relating to the ethics complaint.

6. Each written request submitted by the Executive Director pursuant to subsection 5 must specify the time and place for the voluntary participation of the public officer or employee in the investigation, attendance of the public officer or employee as a witness or production of any books and papers, and designate with certainty the books and papers requested, if any.

7. If the public officer or employee fails or refuses to respond to the Executive Director's written request pursuant to subsection 5 to voluntarily participate or attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the written request, the Chair ~~for, in the Chair's absence, the Vice Chair,~~ may issue the subpoena. Failure of the public officer or employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or employee of the time limits set forth in NRS 281A.700 to 281A.790, inclusive, ~~and section 14 of this act~~ that apply to proceedings concerning the ethics complaint.

8. If any witness fails or refuses to participate, attend, testify or produce any books and papers as required by the subpoena, the Chair ~~for, in the Chair's absence, the Vice Chair,~~ may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of the participation or attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed pursuant to this section; and

(c) The witness has failed or refused to participate, attend, testify or produce the books and papers as required by the subpoena, or has failed or refused to answer questions propounded to the witness,

↪ and asking for an order of the court compelling the witness to participate, attend, testify or produce the books and papers as required by the subpoena.

9. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not participated, attended, testified or produced the books or papers as required by the subpoena. A certified copy of the order must be served upon the witness.

10. If ~~it appears to~~, **at the hearing to show cause**, the court *finds* that the subpoena was regularly issued pursuant to this section ~~††~~ **and that the witness has not proven a reason recognized by law for the failure to comply with its provisions**, the court shall enter an order that the witness comply with the subpoena, at the time and place fixed in the order, and participate, attend, testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

**Sec. 31.** NRS 281A.350 is hereby amended to read as follows:

281A.350 1. Any state agency or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to

complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render *a decision and issue* an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its *code of* ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct ~~to~~, *but the committee may* refer the request to the Commission ~~to~~ *if the response to the request requires the Commission to interpret the statutory ethical standards and apply those standards to the given set of facts and circumstances. If the request is referred to the Commission, it shall be deemed to be a request for an advisory opinion filed by the public officer or employee with the Commission pursuant to NRS 281A.675.* Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's ~~inquiry~~ *request* to that committee *first* instead of the Commission.

(c) Require the filing of financial disclosure statements by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the Secretary of State for review; and

(2) Upon review, approved by the Secretary of State. The Secretary of State shall not approve the form unless the form contains all the information required to be included in a financial disclosure statement pursuant to NRS 281.571.

2. The Secretary of State is not responsible for the costs of producing or distributing a form for filing a financial disclosure statement pursuant to the provisions of subsection 1.

3. A specialized or local ethics committee shall not attempt to interpret *the statutory ethical standards* or render *a decision and issue* an opinion regarding the statutory ethical standards.

4. Each request for an opinion submitted *by a public officer or employee* to a specialized or local ethics committee, each hearing held *by the committee* to obtain information on which to ~~base~~ *render a decision and issue* an opinion, all deliberations *by the committee* relating to ~~an~~ *the decision and* opinion, each ~~opinion~~ *decision* rendered *and opinion issued* by ~~the~~ *the* committee and any motion relating to the *decision and* opinion are confidential unless:

(a) The ~~public officer or employee~~ *requester* acts in contravention of the *decision or* opinion; or

(b) The requester discloses the ~~content~~ *contents* of the *decision or* opinion.

**Sec. 32.** NRS 281A.400 is hereby amended to read as follows:

281A.400 ~~{A code of ethical standards is hereby established to govern the conduct of public officers and employees.}~~

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant *any* unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity. As used in this subsection, "unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest or any person to whom the public officer or employee has a commitment in a private capacity.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, for the performance of the public officer's or employee's duties as a public officer or employee.

5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further a significant pecuniary interest of the public officer or employee or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other official document because it might tend to affect unfavorably a significant pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) ~~The~~ **At the time that the use occurs, the use is:**

**(I) Authorized by a written policy which was adopted before the use occurs by the** public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility ~~has established a policy allowing the use or the use is necessary~~; **or**

**(II) Necessary** as a result of emergency circumstances ~~if~~, **whether or not the use is authorized by such a written policy;**

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

↪ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility ~~for a nongovernmental purpose or for the private~~ **to benefit a significant personal or pecuniary interest** of the State Legislator or any ~~other~~ person ~~if~~ **to whom the State Legislator has a commitment in a private capacity.** This paragraph does not prohibit:

(1) A limited use of ~~state~~ **governmental** property ~~and resources~~, **equipment or other facility** for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the **legislative** employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit a significant personal or pecuniary interest of the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity through the use of the public officer's or employee's official position.

**11. As used in this section, "appearance of impropriety" means ~~the~~ perception by a reasonable person ~~that~~ would find, based on the given set of facts and circumstances, that a public officer's or employee's limited use of governmental property, equipment or other facility for personal purposes is inappropriate, disproportionate, excessive or unreasonable under that given set of facts and circumstances.**

**Sec. 33.** NRS 281A.410 is hereby amended to read as follows:

281A.410 ~~[In addition to the requirements of the code of ethical standards and the other provisions of this chapter:]~~

1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

(a) Shall not accept compensation from any private person to represent or counsel the private person on any issue pending before the agency in which that public officer or employee serves, if the agency makes decisions; and

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. Except as otherwise provided in subsection 3, a State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve.

3. A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:

(a) The member files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each local agency affected by the matter; and

(3) The provisions of this chapter.

4. For the purposes of subsection 3, the request for an advisory opinion, *the decision rendered*, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

5. Unless permitted by this section, a public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.

**Sec. 34.** NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a significant pecuniary interest;

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person; or

(d) Which would reasonably be related to the nature of any representation or counseling that the public officer or employee provided to a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410,

↳ without disclosing information concerning the gift or loan, the significant pecuniary interest, the commitment in a private capacity to the interests of the other person or the nature of the representation or counseling of the private person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, upon the person to whom the public officer or employee has a commitment in a private capacity or upon the private person who was represented or counseled by the public officer or employee. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require ~~that~~ :

(a) A public officer to disclose:



~~[(a)]~~ (1) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

~~[(b)]~~ (2) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

*(b) A public officer or employee to disclose any information which is confidential as a result of a bona fide relationship that protects the confidentiality of the information under the terms of a contract or as a matter of law, including, without limitation, the attorney-client relationship, if the public officer or employee:*

*(1) In the disclosure made pursuant to subsection 1, discloses all nonconfidential information that is required to be disclosed and describes the general nature of the relationship that protects the confidential information from being disclosed; and*

*(2) Abstains from advocating the passage or failure of and from approving, disapproving, voting or otherwise acting upon the matter, regardless of whether the public officer or employee would be required to abstain pursuant to subsection 3.*

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan;

(b) The public officer's significant pecuniary interest; ~~[(c)]~~

(c) The public officer's commitment in a private capacity to the interests of another person ~~[(d)]~~; *or*

*(d) The public officer's representation or counseling of a private person for compensation before another agency within the immediately preceding year, provided such representation or counseling is permitted by NRS 281A.410.*

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest, ~~[(c)]~~ commitment in a private capacity to the interests of another person *or representation or counseling of a private person for compensation as permitted by NRS 281A.410* where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person ~~[(d)]~~ *or has represented or counseled a private person for compensation as permitted by NRS 281A.410*, accruing to the other person, is not greater than that accruing to any other member of any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the duty

of the public officer to make a proper disclosure at the time the matter is considered and in the manner required by subsection 1.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer makes a proper disclosure at the time the matter is considered and in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest, ~~for~~ commitment in a private capacity to the interests of another person ~~or~~ **or representation or counseling of a private person for compensation as permitted by NRS 281A.410.**

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning ~~gifts, loans, interests or commitments~~ **a matter** and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of **the** State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of **the** State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section, "public officer" and "public employee" do not include a State Legislator.

**Sec. 35.** NRS 281A.430 is hereby amended to read as follows:

281A.430 1. ~~Except~~ **Notwithstanding the provisions of NRS 281.221 and 281.230, and except** as otherwise provided in this section and NRS 218A.970 and 332.800, a public officer or employee shall not, **directly or through a third party, perform any existing contract, negotiate, bid on or enter into ~~for~~ any contract or modify or renew any contract if:**

(a) *The contract is between an agency ~~and any~~ in which the public officer or employee serves and:*

(1) *The public officer or employee; or*

(2) *Any business entity in which the public officer or employee has a significant pecuniary interest ~~+~~; or*

(b) *The contract is between an agency that has any connection, relation or affiliation with an agency in which the public officer or employee serves and:*

(1) *The public officer or employee; or*

(2) *Any business entity in which the public officer or employee has a significant pecuniary interest.*

2.  ~~A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers. Except as otherwise provided in subsections 3 to 6, inclusive, a public officer or employee may perform an existing contract, negotiate, bid on or enter into a contract or modify or renew a contract with an agency in which the public officer or employee serves, or a related agency as described in paragraph (b) of subsection 1, if:~~

(a) *The contract is subject to competitive selection and, at the time the contract is negotiated, bid on, entered into, modified or renewed:*

(1) *The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not used as a result of the applicability of NRS 332.112 or 332.148;*

(2) *The sources of supply are limited or no other person expresses an interest in the contract;*

(3) *The public officer or employee has not taken part in developing the contract plans or specifications; and*

(4) *The public officer or employee is not personally involved in opening, considering or accepting offers.*

(b) *The contract, by its nature, is not adapted to be awarded by competitive selection and, at the time the contract is negotiated, bid on, entered into, modified or renewed:*

(1) *The public officer or employee has not taken part in developing the contract plans or specifications and is not personally involved in opening, considering or accepting offers; and*

(2) *The contract is not exclusive to the public officer or employee and is the type of contract that is available to all persons with the requisite qualifications.*

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may *perform an existing contract, negotiate*, bid on or enter into a contract *or modify or renew a contract* with an agency, or may

benefit financially or otherwise from a contract between an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. ~~Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee may bid on or enter into a contract with an agency if:~~

~~—(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;~~

~~—(b) The sources of supply are limited;~~

~~—(c) The public officer or employee has not taken part in developing the contract plans or specifications; and~~

~~—(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.~~

→ If a public officer who is authorized to *perform an existing contract, negotiate*, bid on or enter into a contract *or modify or renew a contract* with an agency pursuant to this ~~subsection~~ *section* is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;

(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and

(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter; and

(3) The provisions of this chapter.

7. For the purposes of subsection 6, the request for an advisory opinion, *the decision rendered*, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

**Sec. 36.** NRS 281A.500 is hereby amended to read as follows:

281A.500 1. On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of:

(1) The county and other political subdivisions within the county except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.

2. Within 30 days after a public employee begins employment:

(a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer swears or affirms the oath of office.

5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a

definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer swears or affirms the oath of office in accordance with subsection 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.

7. If a public officer is serving in a public office and executes and files the acknowledgment for that office as required by the applicable provisions of this section, the public officer shall be deemed to have satisfied the requirements of this section for any other office held concurrently by him or her.

8. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a copy of the standards; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a printed copy of the statutory ethical standards from the Commission.

9. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a printed copy of the form for making the acknowledgment, a printed copy of the statutory ethical standards must be included with the form.

10. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

11. ~~Willful refusal~~ **A public officer who refuses** to execute and file the acknowledgment required by this section shall be deemed to ~~be~~:

~~(a) A willful~~ **have committed a** violation of this chapter for the purposes of NRS 281A.785 and 281A.790. ~~;~~ ~~and~~

~~(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the~~

public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.]

12. As used in this section, “general election” has the meaning ascribed to it in NRS 293.060.

**Sec. 37.** NRS 281A.510 is hereby amended to read as follows:

281A.510 1. ~~1. A~~ ***Except as otherwise provided in this section, a*** public officer or ~~public~~ employee shall not accept or receive an honorarium.

2. An honorarium paid on behalf of a public officer or ~~public~~ employee to a charitable organization from which the **public** officer or employee does not derive any financial benefit is deemed not to be accepted or received by the **public** officer or employee for the purposes of this section.

3. This section does not prohibit:

(a) The receipt of **any** payment **by a public officer or employee** for work performed outside the normal course of ~~a person's~~ **his or her** public office or employment if the performance of that work is consistent with the applicable policies of ~~the person's~~ **his or her** public **body, agency or** employer regarding supplemental employment.

(b) The receipt of an honorarium by the spouse **or domestic partner** of a public officer or ~~public~~ employee if it is related to the ~~spouse's~~ profession or occupation ~~of the spouse or domestic partner.~~

4. As used in this section, “honorarium” means the payment of money or anything of value for an appearance or speech by the public officer or ~~public~~ employee in ~~the officer's or employee's~~ **his or her** capacity as a public officer or ~~public~~ employee. The term does not include the payment of:

(a) The actual and necessary costs incurred by the public officer or ~~public~~ employee, the ~~officer's or employee's~~ spouse or ~~the officer's or employee's~~ **and domestic partner of the public officer or employee or any assistant of the public officer or employee** for transportation and for lodging and meals while the public officer or ~~public~~ employee is away from ~~the officer's or employee's~~ **his or her** residence.

(b) Compensation which would otherwise have been earned by the public officer or ~~public~~ employee in the normal course of ~~the officer's or employee's~~ **his or her** public office or employment.

(c) A fee for a speech related to the **public** officer's or employee's profession or occupation outside of ~~the officer's or employee's~~ **his or her** public office or employment if:

(1) Other members of the profession or occupation are ordinarily compensated for such a speech; and

(2) The fee paid to the public officer or ~~public~~ employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the **public** officer or employee for a comparable speech.

(d) A fee for a speech delivered to an organization of legislatures, legislators or other elected officers.

5. In addition to any other penalties provided by law, a public officer or ~~public~~ employee who violates the provisions of this section shall forfeit the amount of the honorarium.

**Sec. 38.** NRS 281A.550 is hereby amended to read as follows:

281A.550 1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility, ~~for~~ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

2. A former member of the Nevada Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the Nevada Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person, ~~for~~ for 1 year after the termination of the member's service on the Nevada Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a **current or** former public officer or **management-level public** employee of a board, commission, department, division or other agency of the Executive Department of ~~the~~ State Government ~~[- except a clerical employee.]~~ shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted **or administered** by the board, commission, department, division or other agency, **as applicable, during the public officer's or employee's period of public service or employment or** for 1 year after the termination of ~~the former public officer's or employee's~~ **his or her period of public** service or ~~period of~~ employment, if:

(a) The ~~former~~ public officer's or employee's principal duties **include or** included the formulation of policy contained in the regulations governing the business or industry;

(b) ~~During~~ **Within** the immediately preceding year ~~[- the former] during the public officer's or employee's period of public service or employment or within the year immediately preceding the termination of the public officer's or employee's period of public service or employment,~~ **the** public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry; ~~which might, but for this section, employ the former public officer or employee;~~ or



(c) As a result of the ~~former~~ public officer's or employee's governmental service or employment, the ~~former~~ public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a **current or** former ~~public officer who was a~~ member of a board, commission or similar body of the State if:

(a) The ~~former public officer~~ **member** is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The ~~former public officer~~ **member** holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a **current or** former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, **or was implemented, managed or administered by the State or political subdivision, as applicable, during the public officer's or employee's period of public service or employment or** for 1 year after the termination of ~~the officer's or employee's~~ **his or her period of public** service or ~~period of~~ employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded **or was implemented, managed or administered by the State or political subdivision, as applicable, within the immediately preceding year during the public officer's or employee's period of public service or employment or** within the ~~12-month period~~ year immediately preceding the termination of the **public** officer's or employee's **period of public** service or ~~period of~~ employment; and

(c) The position held by the ~~former~~ public officer or employee at the time the contract was awarded **or while it was implemented, managed or administered by the State or political subdivision, as applicable,** allowed the ~~former~~ public officer or employee to **materially** affect or influence the awarding of the contract ~~+~~ **or its implementation, management or administration.**

6. A current or former public officer or employee may file a request for an advisory opinion pursuant to NRS 281A.675 concerning the application of the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and **the Commission may** determine whether relief from the strict application of those provisions is proper. **For the purposes of submitting all necessary information for the Commission to render a decision and issue an advisory opinion in the matter, a current or former public officer or employee may request information concerning potential employment from any business, industry or other person without violating the provisions of subsection 3 or 5, as applicable.** If the Commission determines that relief from

the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

- (a) The best interests of the public;
  - (b) The continued ethical integrity of the State Government or political subdivision, as applicable; and
  - (c) The provisions of this chapter,
- ↪ it may issue an advisory opinion to that effect and grant such relief.

7. For the purposes of subsection 6, the request for an advisory opinion, ***the decision rendered***, the advisory opinion and all meetings, hearings and proceedings of the Commission in such a matter are governed by the provisions of NRS 281A.670 to 281A.690, inclusive.

8. The advisory opinion does not relieve the current or former public officer or employee from the strict application of any provision of NRS 281A.410.

9. ~~For~~ ***Except as otherwise provided in subsection 6, for*** the purposes of this section:

(a) A former member of the Public Utilities Commission of Nevada, the Nevada Gaming Control Board or the Nevada Gaming Commission; or

(b) Any other ***current or*** former public officer or employee governed by this section,

↪ is employed by or is soliciting or accepting employment from a business, industry or other person described in this section if any oral or written agreement is sought, negotiated or exists during the restricted period pursuant to which the personal services of the public officer or employee are provided or will be provided to the business, industry or other person, even if such an agreement does not or will not become effective until after the restricted period.

10. As used in this section, “regulation” has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted ***or administered*** by a board, commission, department, division or other agency of the Executive Department of ***the*** State Government that is exempted from the requirements of chapter 233B of NRS.

**Sec. 39.** NRS 281A.665 is hereby amended to read as follows:

281A.665 ***1. The published opinions of the Commission constitute administrative precedents with persuasive value that the Commission may consider and follow in the adjudication and disposition of any request for an advisory opinion or ethics complaint.***

***2. The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the published opinions of the Commission.***

***3. The ~~Commission's~~ opinions of the Commission may include guidance to a public officer or employee on questions whether:***

~~1. (a) A conflict exists between the public officer's or employee's personal interest and the public officer's or employee's official ~~duty~~~~

~~2. duties.~~

(b) The public officer's or employee's official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.

~~{3-}~~ (c) The conflict would materially affect the independence of the judgment of a reasonable person in the public officer's or employee's situation.

~~{4-}~~ (d) The public officer or employee possesses special knowledge which is an indispensable asset of ~~{the public officer's or employee's public}~~ **his or her public body, agency or employer** and is needed by it to reach a sound decision.

~~{5-}~~ (e) It would be appropriate for the public officer or employee to withdraw or abstain from participation, disclose the nature of the public officer's or employee's conflicting personal interest or pursue some other designated course of action in the matter.

Sec. 40. (Deleted by amendment.)

Sec. 41. NRS 281A.675 is hereby amended to read as follows:

281A.675 1. ~~{A}~~ ***Except as otherwise provided in this section and NRS 281A.280:***

(a) A public officer or employee may file with the Commission a request for an advisory opinion to:

~~{(a)}~~ (1) Seek guidance on matters which directly relate to the propriety of his or her own past, present or future conduct as a public officer or employee under the statutory ethical standards; ~~{set forth in this chapter;}~~ or

~~{(b)}~~ (2) Request relief pursuant to NRS 281A.410, 281A.430 or 281A.550.

(b) ***The supervisory head or the legal counsel of a public body, agency or employer may file with the Commission a request for an advisory opinion to seek guidance on the application of the statutory ethical standards to a hypothetical or general set of facts and circumstances involving one or more particular positions with the public body, agency or employer, but such a request must not involve any actual or specific facts and circumstances of any public officers or employees who are or will be serving or who have served in those particular positions.***

2. The request for an advisory opinion must be:

(a) Filed on a form prescribed by the Commission; and

(b) Submitted with all necessary information for the Commission to render ***a decision and issue*** an advisory opinion in the matter.

3. ***At any time after a request for an advisory opinion is filed with the Commission, the Commission may request additional information relating to the request for an advisory opinion from the following persons:***

(a) ***The requester and his or her legal counsel.***

(b) ***If the requester filed the request for an advisory opinion pursuant to paragraph (a) of subsection 1 and is not represented by the legal counsel of his or her public body, agency or employer, the supervisory head or the legal counsel of that public body, agency or employer, but the Commission shall not disclose the name or position of the requester or the subject matter of the***

*request for an advisory opinion in making such a request for additional information.*

4. The Commission may decline to render *a decision and issue* an advisory opinion if the ~~public officer or employee~~ *requester* does not:

- (a) Submit all necessary information for the Commission to render *a decision and issue* an advisory opinion in the matter; or
- (b) Declare by oath or affirmation that he or she will testify truthfully regarding the matter.

**Sec. 42.** NRS 281A.680 is hereby amended to read as follows:

281A.680 1. ~~If a public officer or employee~~ *Except as otherwise provided in this section, if a requester* properly files a request for an advisory opinion, the Commission shall render *a decision and issue* an advisory opinion that interprets the statutory ethical standards and applies those standards to the given set of facts and circumstances.

2. The Commission shall render *a decision concerning the request* for an advisory opinion within 45 days after receiving the request, unless ~~the~~ :

(a) *The requester waives this time limit* ~~;~~

(b) *The Commission stays or dismisses the proceedings concerning the request for an advisory opinion because:*

(1) *An ethics complaint is filed or pending that involves some or all of the same issues or facts and circumstances that are involved in the request for an advisory opinion; and*

(2) *The Commission determines that staying or dismissing the proceedings concerning the request for an advisory opinion is necessary for the just adjudication and disposition of the proceedings concerning the ethics complaint.*

3. *If the Commission renders a decision concerning the request for an advisory opinion pursuant to this section, the Commission shall issue a written advisory opinion within 90 days after the date on which the decision is rendered, unless the Commission determines that there is good cause to extend this time limit ~~to~~ and sets a specific and reasonable time period for such an extension.*

4. If the *Commission issues a written* advisory opinion ~~rendered by the Commission~~ *to a requester who filed the request for an advisory opinion pursuant to paragraph (a) of subsection 1 of NRS 281A.675 and the advisory opinion* relates to the propriety of the present or future conduct of the requester, the advisory opinion is:

(a) Binding upon the requester with regard to the future conduct of the requester; and

(b) A final decision that is subject to judicial review pursuant to NRS 233B.130.

~~3.1~~ If the requester seeks judicial review pursuant to NRS 233B.130, any proceedings concerning such judicial review must be confidential and held in

closed court without admittance of persons other than those necessary to the proceedings, unless the requester waives this right to confidential proceedings.

**5. If the Commission issues a written advisory opinion to a requester who filed the request for an advisory opinion pursuant to paragraph (b) of subsection 1 of NRS 281A.675, the advisory opinion is not a final decision that is subject to judicial review pursuant to NRS 233B.130.**

**Sec. 43.** NRS 281A.685 is hereby amended to read as follows:

281A.685 1. Except as otherwise provided in this section, the following materials are confidential and are not public records pursuant to chapter 239 of NRS:

- (a) A request for an advisory opinion;
- (b) The **decision rendered and the** advisory opinion ~~rendered~~ **issued** by the Commission in response to the request;
- (c) Any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request; and
- (d) Any information, communications, records, documents or other materials in the possession of the requester of the advisory opinion that are related to the request and, if disclosed by the requester, would reveal the existence, nature or content of the request, **the decision rendered** or the advisory opinion.

2. The provisions of subsection 1 do not create or impose any duty on the Commission or its staff to protect or defend against the disclosure of any materials not in the possession of the Commission or its staff, regardless of whether the materials are related to the request.

3. The provisions of subsection 1 do not apply to any materials in the possession of the Commission or its staff that are related to the request if the requester of the advisory opinion:

(a) Acts in contravention of **the decision rendered or** the advisory opinion, in which case the Commission may disclose the request, **the decision rendered**, the advisory opinion and any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request;

(b) Authorizes the Commission, in writing, to make the request, **the decision rendered**, the advisory opinion or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request publicly available ~~to~~, **except that any disclosure of materials pursuant to this paragraph is limited to the specific materials that the requester authorizes the Commission, in writing, to make publicly available;** or

(c) Voluntarily discloses, in any manner, the request, **the decision rendered**, the advisory opinion or any information, communications, records, documents or other materials in the possession of the Commission or its staff that are related to the request, except to:

(1) The ~~public body,~~ *supervisory head or the legal counsel of his or her public body*, agency or employer ~~of the requester or the~~ *or to any other public officer or employee of that public body, agency or employer to whom the supervisory head or the legal counsel authorizes such a disclosure;*

(2) *The legal counsel of the requester* ~~;~~  
~~—(2)—~~ *to facilitate legal representation when the requester is not represented by the legal counsel of his or her public body, agency or employer;*

(3) Any *other* person to whom the Commission authorizes the requester to make such a disclosure; or

~~—(3)—~~ (4) Any *other* person to whom the requester makes such a disclosure for the purposes of judicial review pursuant to *subsection 4 of* NRS 281A.680.

**Sec. 44.** NRS 281A.690 is hereby amended to read as follows:

281A.690 1. ~~Except as otherwise provided in this section, the~~ *The* provisions of chapter 241 of NRS do not apply to:

(a) Any meeting or hearing held by the Commission to receive information or evidence concerning a request for an advisory opinion; and

(b) Any deliberations or actions of the Commission on such information or evidence.

2. The ~~public officer or employee~~ *requester* who files the request for an advisory opinion may also file a request with the Commission to hold a public meeting or hearing regarding the request for an advisory opinion. *If the Commission grants the request to hold a public meeting or hearing, the Commission shall provide public notice of the meeting or hearing, and the meeting or hearing must be open to the public and conducted in accordance with the regulations of the Commission, but the meeting or hearing is not subject to the provisions of chapter 241 of NRS.*

**Sec. 45.** ~~NRS 281A.700 is hereby amended to read as follows:~~

~~281A.700 The provisions of NRS 281A.700 to 281A.790, inclusive, and section 14 of this act apply to proceedings concerning an ethics complaint.~~  
**(Deleted by amendment.)**

**Sec. 46.** (Deleted by amendment.)

**Sec. 47.** NRS 281A.710 is hereby amended to read as follows:

281A.710 1. Except as otherwise provided in this section and NRS 281A.280, the Commission may render *a decision and issue* an opinion that interprets the statutory ethical standards and applies those standards to a given set of facts and circumstances regarding the propriety of the conduct of a public officer or employee if an ethics complaint is:

(a) Filed by a specialized or local ethics committee established pursuant to NRS 281A.350.

(b) Filed by any person, except a person who is incarcerated in a correctional facility in this State or any other jurisdiction.

(c) Initiated by the Commission on its own motion, except the Commission shall not initiate such an ethics complaint based solely upon an anonymous complaint.

2. An ethics complaint filed by a *specialized or local ethics committee* or person *pursuant to paragraph (a) or (b) of subsection 1* must be:

(a) Verified under oath and filed on a form prescribed by the Commission; and

(b) Submitted with sufficient evidence to support the allegations in order for the Commission to make a determination of whether it has jurisdiction in the matter and whether an investigation is warranted in the matter pursuant to NRS 281A.715 and 281A.720.

3. The Commission may decline to render *a decision and issue* an opinion if the *specialized or local ethics committee* or person ~~who files~~ *filing* the ethics complaint *pursuant to paragraph (a) or (b) of subsection 1* does not submit all necessary evidence in the matter.

**Sec. 48.** NRS 281A.715 is hereby amended to read as follows:

281A.715 1. Based on the evidence submitted with an ethics complaint filed with the Commission *by a specialized or local ethics committee or person* pursuant to *paragraph (a) or (b) of subsection 1* of NRS 281A.710 ~~and any additional evidence obtained by the Executive Director pursuant to subsection 2~~, the Commission shall determine whether it has jurisdiction in the matter and whether an investigation is warranted in the matter. The Commission shall make its determination within 45 days after receiving the ethics complaint, unless the ~~public officer or employee who is the subject of the ethics complaint~~ waives this time limit.

~~2.~~ *Commission determines that there is good cause to extend this time limit ~~and sets a specific and reasonable time period for such an extension.~~*

2. *To assist the Commission in making its determination pursuant to subsection 1 whether it has jurisdiction in the matter and whether an investigation is warranted in the matter, the Executive Director may conduct a preliminary investigation to obtain additional evidence concerning the allegations in the ethics complaint.*

3. If the Commission determines *pursuant to subsection 1* that it does not have jurisdiction in the matter, the Commission shall dismiss the matter.

~~3.~~ 4. If the Commission determines *pursuant to subsection 1* that it has jurisdiction in the matter but the evidence ~~submitted with the ethics complaint~~ is not sufficient to warrant an investigation in the matter, the Commission shall dismiss the matter, with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

~~4.~~ 5. If the Commission determines *pursuant to subsection 1* that it has jurisdiction in the matter and the evidence ~~submitted with the ethics complaint~~ is sufficient to warrant an investigation in the matter, the Commission may direct the Executive Director to investigate the ethics complaint pursuant to NRS 281A.720.

6. *If the Commission initiates an ethics complaint on its own motion pursuant to paragraph (c) of subsection 1 of NRS 281A.710 and the Commission determines that the evidence:*

*(a) Is not sufficient to warrant an investigation in the matter, the Commission may dismiss the matter, with or without prejudice. If the Commission dismisses the matter, it shall issue a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.*

*(b) Is sufficient to warrant an investigation in the matter, the Commission may direct the Executive Director to investigate the ethics complaint pursuant to NRS 281A.720.*

**Sec. 49.** NRS 281A.720 is hereby amended to read as follows:

281A.720 1. If the Commission directs the Executive Director to investigate an ethics complaint pursuant to NRS 281A.715 , ~~for if the Commission initiates an ethics complaint on its own motion pursuant to NRS 281A.710,~~ the Executive Director shall investigate the facts and circumstances relating to the ethics complaint to determine whether the Executive Director believes that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter in order to present a written recommendation to the review panel pursuant to NRS 281A.725.

2. The Executive Director shall ~~provide~~ *prepare and serve a written* notice of the investigation *of the ethics complaint* pursuant to this section ~~to~~ *on* the public officer or employee who is the subject of the ethics complaint and provide the public officer or employee an opportunity to submit to the Executive Director a response to the ~~allegations against the public officer or employee in the ethics complaint.~~ *written notice of the investigation.* The response must be submitted within 30 days after the date on which the public officer or employee ~~receives~~ *is served with* the *written* notice of the investigation pursuant to this section, unless the *public officer or employee waives the time limit set forth in subsection 1 of NRS 281A.725 and the Executive Director grants* ~~an extension.~~ *one or more extensions for good cause shown ~~if~~ and sets a specific and reasonable time period for such an extension.*

3. The purpose of the response submitted pursuant to this section is to provide the Executive Director and the review panel with any information relevant to the ethics complaint which the public officer or employee believes may assist:

(a) The Executive Director in performing his or her investigation and other functions pursuant to this section and NRS 281A.725; and

(b) The review panel in performing its review and other functions pursuant to NRS 281A.730.

4. The public officer or employee is not required in the response submitted pursuant to this section or in any proceedings before the review panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee, and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceedings before the review panel.



**5. Whether or not the public officer or employee submits a response pursuant to this section, the Executive Director may take action, in the manner authorized by NRS 281A.300, to secure the public officer's or employee's participation, attendance as a witness and production of any books and papers during the course of the investigation.**

**Sec. 50.** NRS 281A.725 is hereby amended to read as follows:

281A.725 1. ~~Except as otherwise provided in this subsection, the~~ **The** Executive Director shall complete the investigation required by NRS 281A.720 and present a written recommendation to the review panel within 70 days after the Commission directs the Executive Director to investigate the ethics complaint ~~for after the Commission initiates the ethics complaint on its own motion, as applicable.~~, **except that:**

(a) The public officer or employee who is the subject of the ethics complaint may waive this time limit ~~+~~; **or**

(b) **Upon the request of the Executive Director, the presiding officer of the review panel may grant one or more extensions of this time limit for good cause shown ~~+~~ and must set a specific and reasonable time period for such an extension.**

2. The **written** recommendation **that the Executive Director presents to the review panel** must:

(a) Set forth the factual and legal basis for the recommendation;

(b) State whether the Executive Director believes that there is just and sufficient cause for the Commission to render **a decision and issue** an opinion in the matter; and

(c) If the Executive Director believes that a disposition of the matter without an adjudicatory hearing is appropriate under the facts and circumstances, state any suggested disposition that is consistent with the provisions of this chapter, including, without limitation, whether the Executive Director believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement.

**Sec. 51.** NRS 281A.730 is hereby amended to read as follows:

281A.730 1. Except as otherwise provided in this section, the review panel shall determine whether there is just and sufficient cause for the Commission to render **a decision and issue** an opinion in the matter within 15 days after the Executive Director ~~provides~~ **presents to** the review panel ~~with~~ the recommendation required by NRS 281A.725. The public officer or employee who is the subject of the ethics complaint may waive this time limit. **The review panel shall serve on the public officer or employee who is the subject of the ethics complaint a written notice of its determination.**

2. The review panel shall cause a record of its proceedings to be kept.

3. The review panel shall not determine that there is just and sufficient cause for the Commission to render **a decision and issue** an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond ~~to the allegations~~ as required by NRS 281A.720.

4. If the review panel determines that there is not just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter, it shall dismiss the matter, with or without prejudice, and with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

5. If the review panel determines that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter but reasonably believes that the conduct at issue may be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement, the review panel may:

(a) Approve a deferral agreement proposed by the Executive Director and the public officer or employee instead of referring the ethics complaint to the Commission for further proceedings in the matter; or

(b) Authorize the Executive Director and the public officer or employee to develop such a deferral agreement and may thereafter approve such a deferral agreement instead of referring the ethics complaint to the Commission for further proceedings in the matter.

6. *If the review panel authorizes the development of a deferral agreement pursuant to subsection 5, the review panel shall specify a time limit for its development in the written notice of its determination that is served pursuant to subsection 1, and the deferral agreement must be developed within the time limit, unless the review panel grants one or more extensions for good cause shown ~~and~~ and sets a specific and reasonable time period for such an extension. If the deferral agreement is not developed within the time limit, or any extension thereof, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.*

7. If the review panel does not approve a deferral agreement pursuant to subsection 5 or if the public officer or employee declines to enter into such a deferral agreement, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.

~~7.8.~~ 8. If the review panel determines that there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter and reasonably believes that the conduct at issue may not be appropriately addressed through additional training or other corrective action under the terms and conditions of a deferral agreement, the review panel shall refer the ethics complaint to the Commission for further proceedings in the matter.

**Sec. 52.** NRS 281A.740 is hereby amended to read as follows:

281A.740 1. In proceedings concerning an ethics complaint, the Executive Director and the public officer or employee who is the subject of the ethics complaint may develop a deferral agreement to defer further proceedings in the matter under the terms and conditions of the deferral agreement. *A deferral agreement must be developed within any time limit specified by the review panel, or any extension thereof, pursuant to NRS 281A.730.*

2. A deferral agreement does not become effective unless approved by the review panel pursuant to NRS 281A.730. If the review panel approves a deferral agreement, the Commission shall enforce the terms and conditions of the deferral agreement.

3. A deferral agreement must:

(a) Specify the training or other corrective action to be completed by or imposed upon the public officer or employee;

(b) Specify any other terms and conditions, consistent with the provisions of this chapter, to be imposed upon the public officer or employee; and

(c) Provide that the Commission may vacate the deferral agreement and conduct further proceedings in the matter if the Commission finds that the public officer or employee has failed to comply with any terms and conditions of the deferral agreement.

4. The imposition of training or other corrective action and the imposition of any other terms and conditions in a deferral agreement is without prejudice to any other disposition of the matter, consistent with this chapter, that may be ordered by the Commission if it vacates the deferral agreement and conducts further proceedings in the matter and finds that the public officer or employee has violated any provision of this chapter.

5. The Executive Director shall monitor the compliance of the public officer or employee who is the subject of a deferral agreement and may require the public officer or employee to document his or her compliance with the deferral agreement.

6. The Executive Director shall:

(a) Inform the Commission of any alleged failure of the public officer or employee to comply with the deferral agreement;

(b) Give the public officer or employee written notice of any alleged failure to comply with the deferral agreement; and

(c) Allow the public officer or employee not less than 15 days to respond to such a notice.

7. Within 60 days after the date on which the public officer or employee responds or was entitled to respond to the written notice of any alleged failure to comply with the deferral agreement, the Commission shall determine whether the public officer or employee failed to comply with the deferral agreement, unless the public officer or employee waives this time limit.

8. If the Commission determines that the public officer or employee failed to comply with the deferral agreement, the Commission may take any action it deems appropriate, consistent with the terms and conditions of the deferral agreement and the provisions of this chapter, including, without limitation, vacating the deferral agreement and conducting further proceedings in the matter.

9. If the public officer or employee who is the subject of the deferral agreement complies in a satisfactory manner with the deferral agreement, the Commission shall dismiss the matter.

**Sec. 53.** NRS 281A.745 is hereby amended to read as follows:

281A.745 1. If the review panel refers an ethics complaint to the Commission for further proceedings in the matter pursuant to NRS 281A.730 or if the Commission vacates a deferral agreement and conducts further proceedings in the matter pursuant to NRS 281A.740, the Commission shall hold an adjudicatory hearing and render ~~an opinion in the matter~~ **a decision concerning the ethics complaint** within 60 days after the date on which the review panel refers the ethics complaint to the Commission or the Commission vacates the deferral agreement, as appropriate, unless the public officer or employee who is the subject of the ethics complaint waives this time limit.

2. ~~It~~ **Before** the Commission holds an adjudicatory hearing ~~to receive evidence~~ concerning an ethics complaint, the Commission shall:

(a) ~~Notify~~ **Provide** the public officer or employee who is the subject of the ethics complaint **with a written notice** of the date, time and place of the hearing; **and**

(b) **Provide the parties with a written schedule for discovery relating to the hearing.**

3. **At the adjudicatory hearing:**

(a) **The Executive Director or his or her designee shall present the case to the Commission; and**

(b) **The Commission shall:**

(1) Allow the public officer or employee to be represented by legal counsel; and

~~(e)~~ (2) Allow the public officer or employee to hear the ~~evidence~~ case presented to the Commission **by the Executive Director or his or her designee** and to ~~respond and~~ present ~~evidence on~~ his or her own ~~behalf~~.

~~3~~ **case to the Commission.**

4. Unless the public officer or employee agrees to a shorter time, an adjudicatory hearing may not be held less than 10 days after the date on which the **written** notice of the hearing is ~~given~~ **provided** to the public officer or employee.

~~4~~ 5. For good cause shown, the Commission may take testimony from a person by telephone or video conference at an adjudicatory hearing or at any other proceedings concerning the ethics complaint.

6. **After the Commission renders a decision concerning the ethics complaint, the Commission shall issue a written opinion:**

(a) **Within 90 days after the date on which the decision is rendered; or**

(b) **On the date of the next meeting of the Commission that is held after the date on which the decision is rendered,**

**↪ whichever is later, unless the Commission determines that there is good cause to extend this time limit ~~it~~ and sets a specific and reasonable time period for such an extension.**

7. **The written opinion issued by the Commission must include findings of fact and conclusions of law and otherwise comply with the requirements for a final decision set forth in NRS 233B.125.**

**Sec. 54.** NRS 281A.750 is hereby amended to read as follows:

281A.750 1. Except as otherwise provided in this section and NRS 281A.755, all information, communications, records, documents or other materials in the possession of the Commission, the review panel or their staff that are related to an ethics complaint are confidential and are not public records pursuant to chapter 239 of NRS until:

(a) The review panel determines whether there is just and sufficient cause for the Commission to render *a decision and issue* an opinion in the matter and serves *the* written notice of its determination on the public officer or employee who is the subject of the ethics complaint ~~†~~ *pursuant to NRS 281A.730*; or

(b) The public officer or employee who is the subject of the ethics complaint authorizes the Commission, in writing, to make the information, communications, records, documents or other materials that are related to the ethics complaint publicly available,  
 ↪ whichever occurs first.

2. Except as otherwise provided in subsection ~~†~~ 5, if a person who files an ethics complaint asks that his or her identity as the requester be kept confidential, the Commission:

(a) Shall keep the identity of the requester confidential if he or she is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the ethics complaint.

(b) May keep the identity of the requester confidential if he or she offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of his or her identity will subject the requester or a member of his or her household to a bona fide threat of physical force or violence.

3. *If the Commission keeps the identity of the requester of an ethics complaint confidential pursuant to this section, the following materials are confidential and are not public records pursuant to chapter 239 of NRS:*

*(a) All information, communications, records, documents or other materials in the possession of the Commission that, if disclosed by the Commission, would reveal that the requester filed the ethics complaint. Notwithstanding the provisions of chapter 239 of NRS, in denying a request for public records based on the confidentiality provided by this paragraph, the Commission is not required to provide any information that, if disclosed by the Commission in denying the request for public records, would reveal that the requester filed the ethics complaint.*

*(b) All information, communications, records, documents or other materials in the possession of the requester of the ethics complaint or his or her public body, agency or employer that, if disclosed by either of them, would reveal that the requester filed the ethics complaint. Notwithstanding the provisions of chapter 239 of NRS, in denying a request for public records based on the confidentiality provided by this paragraph, the requester of the ethics complaint or his or her public body, agency or employer is not*

*required to provide any information that, if disclosed by either of them in denying the request for public records, would reveal that the requester filed the ethics complaint.*

4. If the Commission keeps the identity of the requester *of an ethics complaint* confidential ~~and~~ *pursuant to this section and the Executive Director does not intend to present the testimony of the requester as evidence for consideration by the Commission at the adjudicatory hearing or in rendering a decision and issuing an opinion in the matter,* the Commission shall not render *a decision and issue* an opinion in the matter unless there is sufficient evidence without the testimony of the requester to consider the propriety of the conduct of the public officer or employee who is the subject of the ethics complaint. *The provisions of this subsection do not abrogate or otherwise alter or affect the confidentiality of the identity of the requester of the ethics complaint.*

5. If *the Commission keeps the identity of the requester of an ethics complaint confidential pursuant to this section and* the Executive Director intends to present the testimony of the requester as evidence for consideration by the Commission at the adjudicatory hearing or in rendering *a decision and issuing* an opinion in the matter and the public officer or employee who is the subject of the ethics complaint submits a written discovery request to the Commission pursuant to NRS 281A.755, the ~~Commission~~ *Executive Director* shall disclose the name of the requester only as a proposed witness ~~[within a reasonable time before the adjudicatory hearing on the matter.]~~ *in accordance with the schedule for discovery provided to the parties pursuant to NRS 281A.745.*

**Sec. 55.** NRS 281A.755 is hereby amended to read as follows:

281A.755 1. Except as otherwise provided in this section, the investigative file related to an ethics complaint is confidential and is not a public record pursuant to chapter 239 of NRS.

2. ~~[At any time after being served with written notice of the determination of the review panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter.]~~ *In accordance with the schedule for discovery provided to the parties pursuant to NRS 281A.745,* the public officer or employee who is the subject of the ethics complaint may submit a written discovery request to the Commission for a list of proposed witnesses and a copy of any portion of the investigative file that the Executive Director intends to present as evidence for consideration by the Commission at the adjudicatory hearing or in rendering *a decision and issuing* an opinion in the matter.

3. Any portion of the investigative file which the Executive Director presents as evidence for consideration by the Commission at the adjudicatory hearing or in rendering *a decision and issuing* an opinion in the matter becomes a public record and must be open for inspection pursuant to chapter 239 of NRS ~~and~~ *after the Commission takes final action concerning the ethics*

***complaint in a public meeting or hearing pursuant to subsection 2 of NRS 281A.760.***

4. For the purposes of this section:

(a) The investigative file includes, without limitation:

(1) Any response concerning the ethics complaint prepared by the public officer or employee pursuant to NRS 281A.720 and submitted to the Executive Director and the review panel during the course of the investigation and any proceedings before the review panel;

(2) Any recommendation concerning the ethics complaint prepared by the Executive Director pursuant to NRS 281A.725 and ~~submitted~~ **presented** to the review panel during the course of the investigation and any proceedings before the review panel; and

(3) Any other information provided to or obtained by or on behalf of the Executive Director through any form of communication during the course of the investigation and any proceedings before the review panel and any records, documents or other materials created or maintained during the course of the investigation and any proceedings before the review panel which relate to the public officer or employee who is the subject of the ethics complaint, including, without limitation, a transcript, regardless of whether such information, records, documents or other materials are obtained pursuant to a subpoena.

(b) The investigative file does not include any deferral agreement.

**Sec. 56.** NRS 281A.760 is hereby amended to read as follows:

281A.760 **1.** The provisions of chapter 241 of NRS do not apply to:

~~1-1~~ (a) Any meeting or hearing held by the Commission to receive information or evidence concerning an ethics complaint; and

~~1-2~~ (b) Any deliberations **or actions** of the Commission on such information or evidence.

**2. *The Commission shall take final action concerning an ethics complaint in a public meeting or hearing. The Commission shall provide public notice of the meeting or hearing, and the meeting or hearing must be open to the public and conducted in accordance with the regulations of the Commission, but the meeting or hearing is not subject to the provisions of chapter 241 of NRS.***

**Sec. 57.** NRS 281A.765 is hereby amended to read as follows:

281A.765 ~~1. If the Commission renders an opinion in proceedings concerning an ethics complaint, the opinion must include findings of fact and conclusions of law.~~

~~2. If, in~~ **In** proceedings concerning an ethics complaint, **if** the Commission determines that a violation of this chapter:

~~(a)~~ **1.** Has not been proven, the Commission shall dismiss the matter, with or without prejudice, and with or without issuing a letter of caution or instruction to the public officer or employee pursuant to NRS 281A.780.

~~(b)~~ **2.** Has been proven, the Commission may take any action authorized by this chapter.

**Sec. 58.** NRS 281A.770 is hereby amended to read as follows:

281A.770 In any matter in which the Commission disposes of an ethics complaint by stipulation, agreed settlement or consent order or in which the review panel approves a deferral agreement, the Commission or the review panel, as appropriate, shall :

**1. To the extent practicable based on the given set of facts and circumstances,** treat comparable situations in a comparable manner ; and ~~{shall ensure}~~

**2. Ensure** that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

**Sec. 59.** NRS 281A.775 is hereby amended to read as follows:

281A.775 1. The Commission, in determining ~~{whether a violation of this chapter is a willful violation and, if so,}~~ the penalty to be imposed on a ~~{public officer or employee}~~ **current** or former public officer or employee pursuant to NRS 281A.785 or 281A.790, or the review panel, in determining whether to approve a deferral agreement regarding an alleged violation, shall consider, without limitation:

(a) The seriousness of the violation or alleged violation, including, without limitation, the nature, circumstances, extent and gravity of the violation or alleged violation;

(b) The number and history of previous warnings, letters of caution or instruction, deferral agreements or violations or alleged violations of the provisions of this chapter relating to the public officer or employee;

(c) The cost to conduct the investigation and any meetings, hearings or other proceedings relating to the violation or alleged violation;

(d) Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation or alleged violation, any attempts to rectify the violation or alleged violation before any ethics complaint is filed and any cooperation by the public officer or employee in resolving the ethics complaint;

(e) Any restitution or reimbursement paid to parties affected by the violation or alleged violation;

(f) The extent of any financial gain resulting from the violation or alleged violation; and

(g) Any other matter justice may require.

2. The factors set forth in this section are not exclusive or exhaustive, and the Commission or the review panel, as appropriate, may consider other factors in the disposition of the matter if they bear a reasonable relationship to the determination of the severity of the violation or alleged violation.

3. In applying the factors set forth in this section, the Commission or the review panel, as appropriate, shall :

**(a) To the extent practicable based on the given set of facts and circumstances,** treat comparable situations in a comparable manner ; and ~~{shall ensure}~~



(b) **Ensure** that the disposition of the matter bears a reasonable relationship to the severity of the violation or alleged violation.

**Sec. 60.** NRS 281A.780 is hereby amended to read as follows:

281A.780 1. In proceedings concerning an ethics complaint, the Commission or the review panel, as appropriate, may issue a letter of caution or instruction to the public officer or employee who is the subject of the ethics complaint to caution or instruct the public officer or employee regarding the propriety of his or her conduct under the statutory ethical standards. ~~set forth in this chapter.~~

2. If the Commission or the review panel issues a letter of caution or instruction to the public officer or employee, the letter:

(a) Is confidential and is not a public record pursuant to chapter 239 of NRS.

(b) May be considered in deciding the appropriate action to be taken on any subsequent ethics complaint involving the public officer or employee, unless the letter is not relevant to the issues presented by the subsequent ethics complaint.

**Sec. 61.** NRS 281A.785 is hereby amended to read as follows:

281A.785 1. ~~Except as otherwise provided in this section, in~~ **In** proceedings concerning an ethics complaint, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may, in addition to any other ~~penalty~~ **penalties** provided by law and in accordance with the provisions of NRS 281A.775:

(a) Require the public officer or employee who is the subject of the ethics complaint to:

(1) Comply in all respects with the provisions of this chapter for a specified period without being the subject of another ethics complaint arising from an alleged violation of this chapter by the public officer or employee which occurs during the specified period and for which the review panel determines that there is just and sufficient cause for the Commission to render **a decision and issue** an opinion in the matter.

(2) Attend and complete training.

(3) Follow a remedial course of action.

(4) Issue a public apology.

(5) Comply with conditions or limitations on future conduct.

(b) Publicly ~~admonish,~~ reprimand ~~for censure~~ the public officer or employee.

(c) Take any combination of such actions or any other reasonable action that the Commission or the review panel, as appropriate, determines will remedy the violation or alleged violation or deter similar violations or conduct.

2. ~~In carrying out the provisions of subsection 1, the Commission, based on a finding that a violation of this chapter has been proven, or the review panel, as part of the terms and conditions of a deferral agreement, may publicly:~~

~~—(a) Admonish a public officer or employee if it is determined that the public officer or employee has violated any provision of this chapter, but the violation is not willful, or if such an admonishment is imposed as part of the terms and conditions of a deferral agreement. An admonishment is a written expression of disapproval of the conduct of the public officer or employee.~~

~~—(b) Reprimand a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter, but there is no evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law, or if such a reprimand is imposed as part of the terms and conditions of a deferral agreement. A reprimand is a severe written reproof for the conduct of the public officer or employee.~~

~~—(c) Censure a public officer or employee if it is determined that the public officer or employee has willfully violated any provision of this chapter and there is evidence that the willful violation involved bad faith, malicious intent or knowing or reckless disregard of the law or there are no substantial mitigating factors pursuant to NRS 281A.775 for the willful violation, or if such a censure is imposed as part of the terms and conditions of a deferral agreement. A censure is a formal written condemnation of the conduct of the public officer or employee.~~

~~—3.1~~ Any action taken by the Commission pursuant to this section is a final decision for the purposes of judicial review pursuant to NRS 233B.130. Any action taken by the review panel pursuant to this chapter, including, without limitation, any action relating to a deferral agreement, is not a final decision for the purposes of judicial review pursuant to NRS 233B.130.

**Sec. 62.** NRS 281A.790 is hereby amended to read as follows:

281A.790 1. In addition to any other penalties provided by law and in accordance with the provisions of NRS 281A.775, the Commission may impose on a ~~public officer or employee~~ **current** or former public officer or employee civil penalties:

- (a) Not to exceed \$5,000 for a first ~~willful~~ violation of this chapter;
- (b) Not to exceed \$10,000 for a separate act or event that constitutes a second ~~willful~~ violation of this chapter; and
- (c) Not to exceed \$25,000 for a separate act or event that constitutes a third ~~willful~~ violation **or any additional violation** of this chapter.

2. ~~1.1~~ **For the purposes of this section, in determining whether a current or former public officer or employee has committed one or more violations of this chapter, each separate act or event that constitutes a violation of this chapter must be treated as a separate violation that is cumulative to all other violations by that person, whenever committed, without regard to the sequence of the violations or whether the violations are established in the same proceedings concerning the same ethics complaint or in separate proceedings concerning separate ethics complaints.**

3. **Except as otherwise provided in NRS 281A.280, in addition to any other penalties provided by law, if a current or former public officer or**

*employee or any other person prevents, interferes with or attempts to prevent or interfere with any investigation or proceedings pursuant to this chapter or the discovery of a violation of this chapter, such an act shall be deemed to be a violation of this chapter, and the Commission may, ~~upon its own motion or upon the motion of the current or former public officer or employee who is the subject of the investigation or proceedings;~~ after providing the person committing such an act with a written notice of the charges and an opportunity for a hearing in accordance with the regulations of the Commission:*

(a) Impose on the person committing such an act a civil penalty not to exceed \$5,000 ~~+~~, *unless a greater civil penalty is authorized by subsection 1;* and

(b) If appropriate under the facts and circumstances, assess against the person committing such an act an amount equal to the amount of attorney's fees and costs actually and reasonably incurred *as a result of the act by the Commission or any current or former public officer or employee* ~~as a result of~~ *who is a subject of the investigation or proceedings and who is harmed or prejudiced by the act.*

~~3-4~~ 4. If the Commission finds that a violation of ~~the provision of~~ this chapter by a ~~public officer or employee~~ *current* or former public officer or employee has resulted in the realization of a financial benefit by the ~~current or former~~ public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the ~~current or former~~ public officer or employee to pay a civil penalty of not more than twice the amount so realized.

~~4-4~~ 5. In addition to any other penalties provided by law, if ~~a proceeding results in~~ *the Commission issues an opinion in which it finds* that:

(a) ~~One or more willful violations of this chapter have been committed by~~ *A State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution* ~~+~~ *has committed one or more violations of this chapter and the Commission has imposed civil penalties of \$5,000 or more for at least one of those violations,* the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President Pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker Pro Tempore of the Assembly.

(b) ~~One or more willful violations of this chapter have been committed by~~ *A state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution* ~~+~~ *has committed one or more violations of this chapter and the Commission has imposed civil penalties of*

**\$5,000 or more for at least one of those violations**, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

(c) ~~One or more willful violations of this chapter have been committed by a~~ A public officer, other than a public officer described in paragraphs (a) and (b), **has committed one or more violations of this chapter**, the ~~willful~~ violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) ~~May~~ **Except as otherwise provided in subparagraph (2), may** file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed ~~fewer than three willful violations~~ **one or more violations** of this chapter ~~and the Commission has imposed civil penalties of \$5,000 or more for at least one of those violations.~~

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed ~~three~~ **two** or more ~~willful~~ violations of this chapter ~~and the Commission has imposed civil penalties of \$10,000 or more for at least one of those violations.~~

↪ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

~~5.1~~ **6.** Notwithstanding any other provision of this chapter, any act or failure to act by a ~~public officer or employee~~ **current** or former public officer or employee relating to this chapter is not a ~~willful~~ violation of this chapter if the public officer or employee establishes by sufficient evidence that:

(a) The public officer or employee relied in good faith upon the advice of the legal counsel **employed or** retained by his or her public body, agency or employer; and

(b) The advice of the legal counsel was:

(1) Provided to the public officer or employee before the public officer or employee acted or failed to act; and

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee would not be contrary to the provisions of this chapter as interpreted ~~by~~ **in the published opinions of** the Commission.

~~6.1~~ **7.** In addition to any other penalties provided by law, if a public employee commits a ~~willful~~ violation of this chapter or fails to complete a period of compliance imposed by the Commission pursuant to NRS 281A.785 or by the review panel as part of the terms and conditions of a deferral agreement ~~the public employee is subject to disciplinary proceedings by~~:

(a) **The Commission shall provide that information to the public body, agency or** employer of the public employee; and ~~must be referred for~~

*(b) The public body, agency or employer may pursue or take appropriate disciplinary action against the public employee in accordance ~~to~~ with the applicable provisions governing ~~the~~ his or her public employment. ~~of the public employee.~~*

~~7.1~~ 8. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a **current or former** public officer or employee has committed a ~~willful~~ violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

~~8.1~~ 9. The imposition of a civil penalty pursuant to ~~subsection 1, 2 or 3~~ **any provision of subsections 1 to 4, inclusive**, is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

~~9.1~~ 10. A finding by the Commission that a **current or former** public officer or employee **or any other person** has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

**Sec. 63.** ~~NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.060, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,~~

~~338.1503, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **section 14 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be~~

~~prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

~~2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.~~

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.~~

~~4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.~~

~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself. (Deleted by amendment.)~~

**Sec. 64.** ~~[NRS 241.016 is hereby amended to read as follows:~~

~~241.016 1. The meetings of a public body that are quasi judicial in nature are subject to the provisions of this chapter.~~

~~2. The following are exempt from the requirements of this chapter:~~

~~(a) The Legislature of the State of Nevada.~~

~~(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.~~

~~(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.~~

~~3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, and section 9 of this act, which:~~

~~(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or~~

~~(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding.~~

~~→ prevails over the general provisions of this chapter.~~

~~4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.~~

**(Deleted by amendment.)**

**Sec. 65.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

**Sec. 66.** 1. Except as otherwise provided in this section, the Commission on Ethics:

(a) Shall apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that are within the jurisdiction of the Commission and are commenced on or after July 1, 2019, whether or not the conduct at issue in such proceedings occurred before July 1, 2019.

(b) May apply the amendatory provisions of this act which govern the procedures applicable to administrative proceedings arising under chapter 281A of NRS to any such proceedings that were commenced before July 1, 2019, and are still within the jurisdiction of the Commission and pending before the Commission on July 1, 2019, unless the Commission determines that such an application would be impracticable, unreasonable or unconstitutional under the circumstances, in which case the Commission shall apply the procedures in effect before July 1, 2019.

2. The amendatory provisions of sections 11, 18, 32 to 35, inclusive, 37 and 38 of this act do not apply to any conduct occurring before July 1, 2019.

**Sec. 67.** This act becomes effective on July 1, 2019.

Assemblywoman Jauregui moved the adoption of the amendment.

Remarks by Assemblywoman Jauregui.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 151.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 780.

AN ACT relating to property; removing and revising certain provisions relating to actions for summary eviction; reorganizing procedures for summary eviction of a tenant of a commercial premise; revising provisions governing notices to surrender possession of real property or a mobile home; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. (NRS 40.253) **Section 1.7** of this bill removes the provisions governing the summary eviction procedure for a tenant of a commercial premise, thereby making **section 1.7** solely applicable to summary eviction for the tenant of any dwelling, apartment, mobile home or recreational vehicle. **Section 1** of this bill reorganizes the summary eviction procedure for a tenant of a commercial premise.

Existing law requires the landlord or the landlord's agent to serve or have served a notice in writing informing the tenant that he or she must pay the rent or surrender the premises at or before the fifth full day following the day of service. (NRS 40.253) **Section 1.7** of this bill : **(1) authorizes the landlord or landlord's agent to cause the notice to be served upon the tenant; and (2) increases the period [of time] that a tenant has to act after receiving such notice from [5 full days] at or before noon on the fifth full day to [7] before the close of business of the court that has jurisdiction on the seventh judicial [days.] day.**

Existing law authorizes a court, in an action for summary eviction, to order the removal of a tenant in default for rental payments. Existing law requires a sheriff or constable to remove such a tenant within 24 hours after the court issues such an order. (NRS 40.253) **Section 1.7** revises the period of time before the removal of the tenant. **Section 1.7** requires a sheriff or constable to post the order for removal in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. **Section 1.7** then requires the sheriff or constable to remove the tenant not earlier than 24 hours but not later than 36 hours after the posting of the order by the sheriff or constable.

Existing law authorizes a landlord to utilize procedures for summary eviction when a tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of certain unlawful detainers. (NRS 40.254) **Section 2** of this bill eliminates the ability of a landlord of a low-rent housing program operated by a public housing authority to utilize such procedures for summary eviction. **Section 2** also provides that the term "dwelling unit" does not include a unit of ~~[(a low income housing project.)~~ **conventional public housing.** **Section 1.7** also provides that its provisions do not apply to ~~[(a low income housing project.)~~ **conventional public housing.** **Sections 1.7 and 2** define ~~[(low income housing project.)~~ **"conventional public housing"** for such purposes.

Existing law provides that a person who holds over and continues in possession of real property or a mobile home which has been foreclosed or sold under certain circumstances may be removed pursuant to certain proceedings after a 3-day notice to surrender has been served. (NRS 40.255) **Section 3** of this bill additionally provides that an existing lease of residential

property will remain in effect if the property is transferred or sold to a new owner under certain circumstances. **Section 3** provides for the duties and obligations of the tenant and the new owner.

Existing law requires a tenant to be served with certain notices to surrender. Existing law authorizes such service: (1) by delivering a copy of the notice to the tenant personally, in the presence of a witness, or by a sheriff, constable or certain other persons; (2) by leaving the notice with a person who meets certain qualifications at the place of residence or business of the tenant; or (3) by posting the notice on the rental property, delivering the notice to the person living there, if possible, and mailing a copy to the tenant. Existing law requires that proof of service of such notices must be filed with the court before the court orders removal or issues a writ of restitution. (NRS 40.280) **Section 4** of this bill provides that a notice to surrender the premises must be served by a sheriff, a constable, certain persons licensed as a process server or the agent of an attorney under certain circumstances. **Section 4** of this bill prescribes certain requirements for proof of service. **Sections 4.5-~~4.5~~ 7.3** of this bill make conforming changes.

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

**Section 1.** Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *In addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:***

***(a) At or before noon of the fifth full day following the day of service; or***

***(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.***

***↪ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.***

**2. *A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver a copy of the notice to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a***

*process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's agent:*

*(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and*

*(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.*

*3. A notice served pursuant to subsection 1 or 2 must:*

*(a) Identify the court that has jurisdiction over the matter; and*

*(b) Advise the tenant:*

*(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent; and*

*(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order.*

*4. If the tenant files an affidavit pursuant to paragraph (b) of subsection 3 at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.*

*5. Upon noncompliance of the tenant with a notice served pursuant to subsection 1 or 2:*

*(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the commercial premises is located or to the district court of the county in which the commercial premises is located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:*

*(1) The date the tenancy commenced.*

*(2) The amount of periodic rent reserved.*

*(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.*

(4) *The date the rental payments became delinquent.*

(5) *The length of time the tenant has remained in possession without paying rent.*

(6) *The amount of rent claimed due and delinquent.*

(7) *A statement that the written notice was served on the tenant pursuant to subsection 1 or 2 or in accordance with NRS 40.280.*

(8) *A copy of the written notice served on the tenant.*

(9) *A copy of the signed written rental agreement, if any.*

(b) *Except when the tenant has timely filed an affidavit described in paragraph (b) of subsection 3 and a file-stamped copy of the affidavit has been received by the landlord or the landlord's agent, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.*

6. *Upon the filing by the tenant of an affidavit pursuant to paragraph (b) of subsection 3, regardless of the information contained in the affidavit ~~for~~ and the filing by the landlord of an affidavit pursuant to paragraph ~~(b)~~ (a) of subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.*

7. *A tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:*

(a) *The tenant has vacated or been removed from the premises; and*

(b) *A copy of those charges has been requested by or provided to the tenant,*

*↳ whichever is later.*

8. *Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days*

*after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:*

*(a) Determine the costs due, if any, claimed by the landlord pursuant to 118C.230 and any accumulating daily costs; and*

*(b) Order the release of the tenant's property upon the payment of the costs determined to be due or if no charges are determined to be due.*

**9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks.**

**Sec. 1.3.** NRS 40.215 is hereby amended to read as follows:

40.215 As used in NRS 40.215 to 40.425, inclusive, **and section 1 of this act**, unless the context requires otherwise:

1. "Dwelling" or "dwelling unit" means a structure or part thereof that is occupied, or designed or intended for occupancy, as a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

2. "Landlord's agent" means a person who is hired or authorized by the landlord or owner of real property to manage the property or dwelling unit, to enter into a rental agreement on behalf of the landlord or owner of the property or who serves as a person within this State who is authorized to act for and on behalf of the landlord or owner for the purposes of service of process or receiving notices and demands. A landlord's agent may also include a successor landlord or a property manager as defined in NRS 645.0195.

3. "Mobile home" means every vehicle, including equipment, which is constructed, reconstructed or added to in such a way as to have an enclosed room or addition occupied by one or more persons as a residence or sleeping place and which has no foundation other than wheels, jacks, skirting or other temporary support.

4. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

5. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" or "park" does not include those areas or tracts of land, whether within or outside of a park, where the lots are held out for rent on a nightly basis.

6. "Premises" includes a mobile home.

7. "Recreational vehicle" means a vehicular structure primarily designed as temporary living quarters for travel, recreational or camping use, which may be self-propelled or mounted upon or drawn by a motor vehicle.

8. "Recreational vehicle lot" means a portion of land within a recreational vehicle park, or a portion of land so designated within a mobile home park,

which is rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

9. “Recreational vehicle park” means an area or tract of land where lots are rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

10. “Short-term tenancy” means a tenancy in which rent is reserved by a period of 1 week and the tenancy has not continued for more than 45 days.

**Sec. 1.7.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home ~~or recreational vehicle for commercial premises~~ with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord’s agent ~~if, unless otherwise agreed in writing,~~ may ~~serve or have~~ **cause to be** served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) ~~At or before noon of 5 p.m.~~ **Before the close of business on** the ~~fifth full~~ **seventh judicial** day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, “day of service” means the day the landlord or the landlord’s agent personally delivers the notice to the tenant. If personal service was not so delivered, the “day of service” means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the “day of service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord’s agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in ~~paragraph (a) of~~ subsection ~~11~~ 2 of ~~NRS 40.280.~~ **section 1 of this act.** If the notice cannot be delivered in person, the landlord or the landlord’s agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord’s agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the

sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

- (a) Identify the court that has jurisdiction over the matter; and
- (b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to ***post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall*** remove the tenant ~~within 24~~ ***not earlier than 24 hours but not later than 36 hours*** after ~~receipt~~ ***the posting*** of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home ~~or recreational vehicle~~ ~~for commercial premises~~ are located or to the district court of the county in which the dwelling, apartment, mobile home ~~or recreational vehicle~~ ~~for commercial premises~~ are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to ***post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall*** remove the tenant ~~within 24~~ ***not earlier than 24 hours but not later than 36 hours*** after ~~receipt~~ ***the posting*** of the order. The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~for 118C.230~~ for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant, ↪ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to



the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~for 118C.230~~ and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of ~~it~~:

(a) A mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215 ~~it~~; or

(b) ~~A low-income housing project.~~ **Conventional public housing.**

11. As used in this section ~~the "low-income housing project" has the meaning ascribed to it in 42 U.S.C. § 1437a(b)(1).~~:

(a) "Close of business" means the close of business of the court that has jurisdiction over the matter.

(b) "Conventional public housing":

(1) Means any public housing program established pursuant to the United States Housing Act of 1937, 42 U.S.C. §§ 1437 et seq., in which the program subsidy is tied to the dwelling unit, and the housing is operated by a housing authority. For the purpose of this subparagraph, "housing authority" has the meaning ascribed to it in NRS 315.021.

(2) The term does not include housing rented through the use of housing assistance pursuant to section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f.

Sec. 2. NRS 40.254 is hereby amended to read as follows:

40.254 1. Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit, ~~part of a low-rent housing program operated by a public housing authority,~~ a mobile home or a recreational vehicle is guilty of an unlawful detainer pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the landlord's agent may utilize the summary procedures for eviction as provided in NRS 40.253 except that written notice to surrender the premises must:

- (a) Be given to the tenant in accordance with the provisions of NRS 40.280;
- (b) Advise the tenant of the court that has jurisdiction over the matter; and
- (c) Advise the tenant of the tenant's right to:

(1) Contest the notice by filing before the court's close of business on the fifth judicial day after the day of service of the notice an affidavit with the court that has jurisdiction over the matter stating the reasons why the tenant is not guilty of an unlawful detainer; or

(2) Request that the court stay the execution of the order for removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted.

2. The affidavit of the landlord or the landlord's agent submitted to the justice court or the district court must state or contain:

(a) The date when the tenancy commenced, the term of the tenancy and, if any, a copy of the rental agreement. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.

(b) The date when the tenancy or rental agreement allegedly terminated.

(c) The date when written notice to surrender was given to the tenant pursuant to the provisions of NRS 40.251, 40.2514 or 40.2516, together with any facts supporting the notice.

(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.

(e) A statement that the claim for relief was authorized by law.

3. If the tenant is found guilty of unlawful detainer as a result of the tenant's violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

***4. For the purpose of this section, the term "dwelling unit" does not include a unit of ~~fa low income housing project~~ conventional public housing. As used in this subsection, ~~["low income housing project" has the meaning ascribed to it in 42 U.S.C. § 1437a(b)(1)]~~ "conventional public housing" has the meaning ascribed to it in NRS 40.253.***

**Sec. 2.5.** NRS 40.2545 is hereby amended to read as follows:

40.2545 1. In any action for summary eviction pursuant to NRS 40.253 or 40.254 ~~or~~ **or section 1 of this act**, the eviction case court file is sealed automatically and not open to inspection:

(a) Upon the entry of a court order which denies or dismisses the action for summary eviction; or

(b) Thirty-one days after the tenant has filed an affidavit described in subsection 3 of NRS 40.253 ~~or~~ **or subsection 3 of section 1 of this act**, if the landlord has failed to file an affidavit of complaint pursuant to subsection 5 of

NRS 40.253 *or subsection 5 of section 1 of this act* within 30 days after the tenant filed the affidavit.

2. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, the court may order the sealing of an eviction case court file:

(a) Upon the filing of a written stipulation by the landlord and the tenant to set aside the order of eviction and seal the eviction case court file; or

(b) Upon motion of the tenant and decision by the court if the court finds that:

(1) The eviction should be set aside pursuant to Rule 60 of the Justice Court Rules of Civil Procedure; or

(2) Sealing the eviction case court file is in the interests of justice and those interests are not outweighed by the public's interest in knowing about the contents of the eviction case court file, after considering, without limitation, the following factors:

(I) Circumstances beyond the control of the tenant that led to the eviction;

(II) Other extenuating circumstances under which the order of eviction was granted; and

(III) The amount of time that has elapsed between the granting of the order of eviction and the filing of the motion to seal the eviction case court file.

3. If the court orders the eviction case court file sealed pursuant to this section, all proceedings recounted in the eviction case court file shall be deemed never to have occurred.

4. As used in this section, "eviction case court file" means all records relating to an action for summary eviction which are maintained by the court, including, without limitation, the affidavit of complaint and any other pleadings, proof of service, findings of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, Justice Court Rules of Civil Procedure and local rules of practice and all other papers, records, proceedings and evidence, including exhibits and transcript of the testimony.

**Sec. 3.** NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as otherwise provided in subsections 2, 4 and ~~7~~ 9, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to surrender has been served upon the person may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against the person, or against another person under whom the person claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by the person, or by another person under whom the person claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by the person, or by another person under whom the person claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by the person, or by another person under whom the person claims, and the title under the sale has been perfected.

2. *Except as otherwise provided in subsection 4, if the property has been transferred or sold as a residential sale, absent an agreement between the new owner and the tenant to modify or terminate an existing lease:*

(a) *The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property;*

(b) *The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property; and*

(c) *Upon termination of the previous owner's interest in the property by residential transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights, obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.*

3. *The new owner pursuant to subsection 2 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:*

(a) *Providing the contact information of the new owner to whom rent should be remitted;*

(b) *Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the period of the lease term and states the amount held by the new owner for the security deposit; and*

(c) *Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.*

4. If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period

beginning on the date the notice was received by the tenant or subtenant and expiring:

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

~~13-1~~ 5. During the notice period described in subsection ~~12-1~~ 4:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.

~~14-1~~ 6. The notice described in subsection ~~12-1~~ 4 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection ~~12-1~~ 4; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

~~15-1~~ 7. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection ~~12-1~~ 4.

~~16-1~~ 8. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection ~~12-1~~ 4 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection ~~12-1~~ 4.

~~7-9.~~ **9.** This section does not apply to the tenant of a mobile home lot in a mobile home park.

~~8-10.~~ **10.** As used in this section, “residential foreclosure” means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, “single family residence” means a structure that is comprised of not more than four units.

**Sec. 4.** NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253 ~~and~~ **section 1 of this act**, the notices required by NRS 40.251 to 40.260, inclusive, must be served ~~as follows:~~

~~(a) By delivering a copy to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, a constable, or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.~~ **or the agent of an attorney licensed to practice in this State:**

**(a) By delivering a copy to the tenant personally.**

(b) If the tenant is absent from the tenant’s place of residence or from the tenant’s usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at the tenant’s place of residence or place of business.

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. The notices required by NRS 40.230, 40.240 and 40.414 must be served upon an unlawful or unauthorized occupant:

(a) Except as otherwise provided in this paragraph and paragraph (b), by delivering a copy to the unlawful or unauthorized occupant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.

(b) If the unlawful or unauthorized occupant is absent from the real property, by leaving a copy with a person of suitable age and discretion at the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to “Current Occupant.”

(c) If a person of suitable age or discretion cannot be found at the real property, by posting a copy in a conspicuous place on the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to “Current Occupant.”

3. Service upon a subtenant may be made in the same manner as provided in subsection 1.

4. Proof of service of any notice required by NRS 40.230 to 40.260, inclusive, must be filed with the court before:

(a) An order for removal of a tenant is issued pursuant to NRS 40.253 or 40.254;

(b) An order for removal of an unlawful or unauthorized occupant is issued pursuant to NRS 40.414; ~~or~~

(c) A writ of restitution is issued pursuant to NRS 40.290 to 40.420, inclusive ~~or~~; *or*

*(d) An order for removal of a commercial tenant pursuant to section 1 of this act.*

5. Proof of service of *notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue* an order or writ filed pursuant to *paragraph (a), (b) or (c) of* subsection 4 must consist of:

(a) Except as otherwise provided in ~~paragraphs~~ *paragraph (b) : ~~and (c)~~*

(1) If the notice was served pursuant to ~~paragraph (a) of~~ subsection 1 ~~or~~, *a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice. If the notice was served by the agent of an attorney licensed in this State, the statement must be accompanied by a declaration, signed by the attorney and bearing the license number of the attorney, stating that the attorney:*

*(I) Was retained by the landlord in an action pursuant to NRS 40.230 to 40.420, inclusive;*

*(II) Reviewed the date and manner of service by the agent; and*

*(III) Believes to the best of his or her knowledge that such service complies with the requirements of this section.*

(2) *If the notice was served pursuant to* paragraph (a) of subsection 2, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, as applicable, and a witness, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

~~(2)~~ (3) If the notice was served pursuant to ~~paragraph (b) or (c) of~~ subsection 1 ~~or~~ paragraph (b) or (c) of subsection 2, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) ~~If the notice was served by a sheriff, a constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice.~~

~~(c)~~ For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

**6. Proof of service of notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue an order filed pursuant to paragraph (d) of subsection 4 must consist of:**

**(a) Except as otherwise provided in paragraphs (b) and (c):**

**(1) If the notice was served pursuant to subsection 2 of section 1 of this act, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, and a witness, as applicable, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.**

**(2) If the notice was served pursuant to paragraph (b) or (c) of subsection 1, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.**

**(b) If the notice was served by a sheriff, a constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice.**

**(c) For a short-term tenancy, if service of the notice was not delivered in person:**

**(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or**

**(2) The endorsement of a sheriff or constable stating the:**

**(I) Time and date the request for service was made by the landlord or the landlord's agent;**

**(II) Time, date and manner of the service; and**

**(III) Fees paid for the service.**

**7. For the purpose of this section, an agent of an attorney licensed in this State shall only serve notice pursuant to subsection 1 if:**

**(a) The landlord has retained the attorney an action pursuant to NRS 40.290 to 40.420, inclusive; and**

**(b) The agent is acting at the direction and under the direct supervision of the attorney.**

**Sec. 4.5.** NRS 40.385 is hereby amended to read as follows:

40.385 Upon an appeal from an order entered pursuant to NRS 40.253 ~~†~~ or section 1 of this act:



1. Except as otherwise provided in this subsection, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.

2. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253 ~~+~~ *or section 1 of this act.*

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 or more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the

posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse;

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. If the sale of property is a residential foreclosure, the notice must include, without limitation:

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

#### NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes. ~~and may be served by:~~

~~—(1) Delivering a copy to you personally in the presence of a witness, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;~~

~~—(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business and to the place where the leased property is situated, if different;~~  
or

~~—(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property and mailing a copy to you at the place where the leased property is situated.]~~

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

**Sec. 7.** NRS 107.087 is hereby amended to read as follows:

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property not later than:

(1) For a notice of default and election to sell, 100 days before the date of sale; or

(2) For a notice of sale, 15 days before the date of sale; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than 15 days before the date of sale. The separate notice must be in substantially the following form:

#### NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes. ~~and may be served by:~~

~~—(1) Delivering a copy to you personally in the presence of a witness, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;~~

~~—(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business and to the place where the leased property is situated, if different;~~  
or

~~—(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property and mailing a copy to you at the place where the leased property is situated.]~~

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or sheriff of the county in which the property is located.

5. As used in this section, “residential foreclosure” has the meaning ascribed to it in NRS 107.0805.

**Sec. 7.1. NRS 118.205 is hereby amended to read as follows:**

118.205 A notice provided by a landlord to a tenant pursuant to NRS 118.195:

1. Must advise the tenant of the provisions of that section and specify:

- (a) The address or other location of the property;
- (b) The date upon which the property will be deemed abandoned and the rental agreement terminated; and
- (c) An address for payment of the rent due and delivery of notice to the landlord.

2. Must be served pursuant to subsection 1 of NRS 40.280.

3. May be included in the notice required by subsection 1 of NRS 40.253 ~~+~~ **or subsection 1 of section 1 of this act, as applicable.**

**Sec. 7.3. NRS 118C.230 is hereby amended to read as follows:**

118C.230 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of ~~NRS 40.253~~ **section 1 of this act.**

Sec. 7.5. ~~NRS 645H.520 is hereby amended to read as follows:~~

~~645H.520 1. Subject to the provisions of NRS 645H.770, the services an asset management company may provide include, without limitation:~~

~~(a) Securing real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;~~

~~(b) Providing maintenance for real property in foreclosure, including landscape and pool maintenance;~~

~~(c) Cleaning the interior or exterior of real property in foreclosure;~~

~~(d) Providing repair or improvements for real property in foreclosure; and~~

~~(e) Removing trash and debris from real property in foreclosure and the surrounding property.~~

~~2. An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:~~

~~(a) The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.~~

~~(b) After the expiration of the 30 day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the last known address of the homeowner or the tenant of the homeowner.~~

~~(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.~~

~~3. Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253 [.] or section 1 of this act, as applicable. (Deleted by amendment.)~~

Sec. 8. This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 166.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 860.

AN ACT relating to employment; requiring certain penalties and fines imposed by the Nevada Equal Rights Commission for certain unlawful discriminatory practices to be deposited in the State General Fund; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising provisions relating to unlawful employment practices; revising the relief that the Commission may order if it determines that an unlawful employment practice has occurred; revising provisions relating to the time in which a person may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits an employer, employment agency, labor organization or joint labor-management committee from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origination. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.160, 233.170)

**Existing federal law provides that an unlawful employment practice with respect to discrimination in compensation occurs when: (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to a discriminatory compensation decision or other practice, or (3) an individual is affected by application of a discriminatory compensation decision or other practice. (42 U.S.C. § 2000e-5(e)(3)(A))** Section 2 of this bill generally revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after ~~any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice.~~ **the date on which the unlawful discrimination occurs pursuant to federal law, as it currently exists. If federal law is amended to provide greater protections for employees, section 2 requires such a**



**complaint to be filed within 300 days after the date on which the unlawful discrimination occurs pursuant to federal law, as amended.** Section 2 also requires the Commission to notify each party to a complaint of the period of time that a person may apply to a district court for relief. Section 3 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 3 authorizes the Commission to: (1) award back pay for a period beginning 2 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint; (2) order payment of ~~compensatory~~ **lost wages or other economic** damages in cases involving an unlawful employment practice relating to discrimination on the basis of sex; and (3) under certain circumstances, order a civil penalty, in increasing amounts, for an unlawful employment practice that it determines is willful based on the number of such practices the person has committed in the previous 5 years.

Section 1 of this bill requires that any penalty or fine imposed by the Commission for certain unlawful discriminatory practices and for willful interference with the performance of duties by the Commission be deposited in the State General Fund and authorizes the Commission to present a claim for recommendation to the Interim Finance Committee if money is required to pay certain costs.

Section 8 of this bill requires the Commission, if it does not conclude that an unfair employment practice has occurred, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice and any potential punitive damages owed to the person. Section 9 of this bill provides that a person may apply to a district court for relief pursuant to section 8 up to ~~180~~ **90** days after the date of issuance of the letter described in section 8.

**Existing law prohibits an employer, employment organization or labor organization from discriminating against certain persons because the persons have inquired about, discussed or voluntarily disclosed his or her wages or the wages of another such person. (NRS 613.330)** Section ~~5~~ of this bill expands the list of persons who are protected from certain unlawful employment practices to include applicants for employment, and section 7 of this bill expressly includes references to the provisions providing such protections for the purpose of specifying who may file a complaint.

~~Section 6 of this bill provides that it is an unlawful employment practice to use an occupational qualification which: (1) is based upon or derived from a difference on the basis of sex; or (2) the employer, employment agency, labor organization or joint labor management committee has refused to change after being presented by an affected person with an alternative practice that would serve the same purpose in a manner that is less discriminatory on the basis of sex.~~

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

**Section 1.** Chapter 233 of NRS is hereby amended by adding thereto a new section to read as follows:

**1.** *All penalties and fines imposed by the Commission pursuant to NRS 233.170 and 233.210 must be deposited with the State Treasurer for credit to the State General Fund.*

**2.** *If the money collected from the imposition of any penalty and fine is deposited in the State General Fund pursuant to subsection 1, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.*

**Sec. 2.** NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

↪ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures.

**4.** *The Commission shall notify each party to the complaint of the limitation on the period of time ~~that~~ during which a person may apply to the district court for relief pursuant to NRS 613.430.*

**5.** *For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on ~~each~~ :*

- ~~(a) Except as otherwise provided in paragraph (b), the date ~~on which~~~~
- ~~(a) A decision or other practice resulting in discriminatory compensation is adopted;~~
- ~~(b) A person becomes subject to a decision or other practice resulting in discriminatory compensation; or~~

~~(e) A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each payment of wages, benefits or other compensation that is affected by the decision or practice, prescribed by 42 U.S.C. § 2000e-5(e)(3)(A), as it existed on January 1, 2019.~~

(b) If 42 U.S.C. § 2000e-5(e)(3)(A) is amended and the Commissioner determines by regulation that the section, as amended, provides greater protection for employees than the section as it existed on January 1, 2019, the date prescribed by 42 U.S.C. § 2000e-5(e)(3)(A), as amended.

Sec. 3. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

(a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and

(b) Order the person to:

(1) Cease and desist from the unlawful practice. ***The order must include, without limitation, the corrective action the person must take.***

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~not to exceed 2 years after the date of the most recent unlawful practice,~~ ***described in subsection 4,*** annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the Commission's decision, plus 2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

(3) *In cases involving an unlawful employment practice relating to discrimination on the basis of sex, pay an amount determined to be appropriate by the Commission ~~as compensatory damages which, upon submission of proof by the aggrieved party, may include, without limitation, compensation~~ for lost wages that would have been earned in the absence of discrimination or other economic damages resulting from the discrimination, including, without limitation, lost payment for overtime, shift differential, cost of living adjustments, merit increases or promotions, or other fringe benefits.*

(4) *In cases involving an unlawful employment practice committed by an employer with ~~30~~ 50 or more employees that the Commission determines was willful, pay a civil penalty of:*

(I) *For the first unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$5,000.*

(II) *For the second unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$10,000.*

(III) *For the third and any subsequent unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$15,000.*

4. *For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning 2 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3 ~~addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.~~*

5. *Before imposing a civil penalty pursuant to subparagraph (4) of paragraph (b) of subsection 3, the Commission must allow the person found to have willfully engaged in an unlawful employment practice 30 days to take corrective action from the date of service of the order pursuant to paragraph (a) of subsection 3. If the person takes such corrective action, the Commission shall not impose the civil penalty.*

6. ~~*The Commission shall adopt regulations setting forth the manner in which the Commission will determine whether an unlawful employment practice was willful.*~~

~~7.]~~ The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the

unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~5.87~~ 7. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

8. For the purposes of this section, an unlawful employment practice shall be deemed to be willful if a person engages in the practice with knowledge that it is unlawful or with reckless indifference to whether it is lawful or unlawful.

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~NRS 613.330 is hereby amended to read as follows:~~

~~613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:~~

~~(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;~~

~~(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin; or~~

~~(c) Except as otherwise provided in subsection 7, to discriminate against any employee or applicant for employment because the employee or applicant has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another employee.~~

~~2. It is an unlawful employment practice for an employment agency:~~

~~(a) To fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person;~~

~~(b) To classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of that person; or~~

~~(c) Except as otherwise provided in subsection 7, to discriminate against any person because the person has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another person.~~

~~3. It is an unlawful employment practice for a labor organization:~~

~~(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;~~

~~(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the~~

~~person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin;~~

~~—(e) Except as otherwise provided in subsection 7, to discriminate or take any other action prohibited by this section against any member thereof or any applicant for membership because the member or applicant has inquired about, discussed or voluntarily disclosed his or her wages or the wages of another member or applicant; or~~

~~—(d) To cause or attempt to cause an employer to discriminate against any person in violation of this section.~~

~~—4. It is an unlawful employment practice for any employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining, including, without limitation, on the job training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.~~

~~—5. Except as otherwise provided in subsection 6, it is an unlawful employment practice for any employer, employment agency, labor organization or joint labor management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.~~

~~—6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment, except that an employer may refuse to permit an employee to keep a service animal that is a miniature horse with him or her if the employer determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.~~

~~—7. The provisions of paragraph (e) of subsection 1, paragraph (e) of subsection 2 and paragraph (e) of subsection 3, as applicable, do not apply to any person who has access to information about the wages of other persons as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is ordered by the Labor Commissioner or a court of competent jurisdiction.~~

~~—8. It is an unlawful employment practice for an appointing authority governed by the provisions of chapter 284 of NRS, the Administrator of the Division of Human Resource Management of the Department of Administration or the governing body of a county, incorporated city or unincorporated town to consider the criminal history of an applicant for employment without following the procedure required in NRS 245.046, 268.402, 269.0802, 284.281 or 284.283, as applicable.~~

~~9. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097. (Deleted by amendment.)~~

~~Sec. 6. [NRS 613.350 is hereby amended to read as follows:~~

~~613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.~~

~~2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.~~

~~3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.~~

~~4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.~~

~~5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement,~~

pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.4383, inclusive, as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

~~6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.~~

~~7. For the purpose of subsection 1, "bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise" does not include a qualification which:~~

~~(a) Is based upon or derived from a difference on the basis of sex; or~~

~~(b) The employer, employment agency, labor organization or joint labor-management committee has refused to change after an affected person has presented an alternative practice that would serve the same purpose without producing the same amount of differential treatment on the basis of sex.]~~

**(Deleted by amendment.)**

Sec. 7. NRS 613.405 is hereby amended to read as follows:

613.405 1. Except as otherwise provided in subsection 2, any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.4383, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

2. Any person injured by an unlawful employment practice within the scope of *paragraph (c) of subsection 1, paragraph (c) of subsection 2, paragraph (c) of subsection 3, subsection 7 or* subsection 8 of NRS 613.330 may file a complaint to that effect with the Nevada Equal Rights Commission regardless of whether the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

3. Any person injured by an unlawful employment practice within the scope of NRS 613.4353 to 613.4383, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on an employer's failure to comply with the provisions of NRS 613.4353 to 613.4383, inclusive.

Sec. 8. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.4383, inclusive, has occurred ~~[-any]~~:

1. *Any* person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[-]~~; *and*



*2. The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

**Sec. 9.** NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~or more than 180~~ **90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.** When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

**Sec. 10.** This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 175.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 761.

AN ACT relating to public works; revising provisions relating to the authority of a public body to enter into a contract with a design-build team for the construction of certain public works; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a public body may contract with a design-build team for the design and construction of a discrete public works project if the public body has approved the use of the design-build team and the project has an estimated cost of more than \$5,000,000. Furthermore, within a 12-month period a public body may contract with a design-build team for the design and construction of not more than two discrete public works projects which each have an estimated cost of \$5,000,000 or less. (NRS 338.1711) This bill eliminates the authority of a public body to contract with a design-build team for the design and construction of not more than two discrete public works projects per year which each have an estimated cost of \$5,000,000 or less, effective July 1, 2021. **This bill also defines a "discrete project" as one or more public works which are undertaken on a single construction site for a single public body.**

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

**Section 1.** NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.158 to 338.168, inclusive, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds \$5,000,000.

~~3. Within any 12-month period, a public body may contract with a design-build team for the design and construction of not more than two discrete public works projects, each of which have an estimated cost of \$5,000,000 or less if the public body has approved the use of a design-build team.~~

**3. As used in this section, “discrete project” means one or more public works which are undertaken on a single construction site for a single public body. The term does not include one or more public works that are undertaken on multiple construction sites regardless of whether the public body which sponsors or finances the public works bundles the public works together.**

**Sec. 2.** This act becomes effective on July 1, 2021.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 197.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 843.

AN ACT relating to trade practices; prohibiting the importation and sale of cosmetics for which testing was performed on an animal; providing a **civil** penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

This bill ~~makes it unlawful for~~ **prohibits, under certain circumstances,** a manufacturer ~~to import, sell~~ **from importing, selling or offer** offering for sale in this State any cosmetic for which testing was performed on certain animals. This bill provides certain exemptions to the prohibition for certain animal testing that is performed pursuant to federal, state or foreign regulatory requirements. ~~A person who commits this crime is guilty of a misdemeanor, punishable by imprisonment in the county jail for a term of not more than 6~~

~~months, or a fine of up to \$1,000, or both. (NRS 193.150) or before a certain date.~~ This bill also : **(1) provides that a manufacturer that violates the prohibition is liable for certain civil penalties, punitive damages, costs and fees; and (2) authorizes any person to maintain an action against a manufacturer that violates the prohibition and to seek an injunction and reasonable attorney's fees and costs. If such an action involves any trade secrets, existing law provides protections for the trade secrets. (NRS 49.325, 600A.070)**

**Additionally, this bill** prohibits any political subdivision of this State or agency thereof from establishing or continuing prohibitions that are not identical to the provisions of this bill. This bill also allows an inventory of cosmetics which is otherwise in violation of the prohibition on or relating to animal testing to be sold on or before June 30, 2020.

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

**Section 1.** Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*It is unlawful for a*~~ ***Except as otherwise provided in this section, a manufacturer ~~to~~ shall not import for profit, sell or offer for sale in this State any cosmetic for which the manufacturer knew or reasonably should have known that animal testing was conducted or contracted by or on behalf of the manufacturer or any supplier of the manufacturer if the animal testing was conducted on or after January 1, 2020.***

2. *The prohibition in subsection 1 does not apply to animal testing that is conducted:*

(a) *To comply with a requirement of a federal or state regulatory agency if:*

(1) *The cosmetic or ingredient in the cosmetic which is tested is in wide use and cannot be replaced by another ingredient which is capable of performing a similar function;*

(2) *A specific human health problem relating to the cosmetic or ingredient is substantiated and the need to conduct animal testing is justified and supported by a detailed protocol for research that is proposed as the basis for the evaluation of the cosmetic or ingredient; and*

(3) *There does not exist a method of testing other than animal testing that is accepted for the relevant purpose by the federal or state regulatory agency.*

(b) *To comply with a requirement of a regulatory agency of a foreign jurisdiction, if no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer.*

(c) *On any product or ingredient in the cosmetic subject to the requirements of Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.*

*(d) For purposes unrelated to cosmetics pursuant to a requirement of a federal, state or foreign regulatory agency, if no evidence derived from such testing was relied upon to substantiate the safety of a cosmetic sold within this State by the manufacturer. A manufacturer is not prohibited from reviewing, assessing or retaining evidence from animal testing which is conducted pursuant to this paragraph.*

*3. This section does not apply to:*

*(a) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2020, even if the cosmetic is manufactured on or after that date; or*

*(b) An ingredient in a cosmetic if the ingredient was sold in this State and was tested on animals before January 1, 2020, even if the ingredient is manufactured on or after that date.*

*4. A manufacturer that violates the provisions of subsection 1 is liable for:*

*(a) A civil penalty of not more than:*

*(1) For the first violation, \$2,500; and*

*(2) For the second or subsequent violation, \$5,000 for each violation;*

*(b) Punitive damages of not more than \$10,000, if the facts warrant; and*

*(c) The costs incurred to recover the civil penalty and, if applicable, punitive damages, including, without limitation:*

*(1) The costs, if any, of conducting an investigation into the violation;*

*(2) Reasonable costs specified in NRS 18.005; and*

*(3) Reasonable attorney's fees.*

*5. An action to recover the civil penalty and, if applicable, punitive damages may be brought by any person, including, without limitation, a consumer, a governmental agency, the Attorney General, a district attorney, a city attorney or a nonprofit organization that has an interest in preventing a manufacturer from violating the provisions of subsection 1, as appropriate. The action may be instituted in any court of competent jurisdiction in the city or county in which:*

*(a) Either party resides;*

*(b) The defendant may be found; or*

*(c) The violation occurred.*

*6. Except as otherwise provided in this subsection, any money awarded by a court pursuant to this section must be awarded to the person or governmental entity that brought the action. If a court imposes punitive damages pursuant to paragraph (b) of subsection 4, the amount of punitive damages:*

*(a) Must be awarded to the county in which the action was brought and used for costs associated with the shelter, care and impoundment of mistreated animals; and*

*(b) Is separate from, and in addition to, any other penalty, costs or fees awarded to the person or governmental entity that brought the action.*

7. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

8. In addition to any other remedy provided by law, any person may maintain an action against a manufacturer that violates the provisions of subsection 1, seek to enjoin the importation for profit, sale or offer for sale in this State a cosmetic described in subsection 1 and seek reasonable attorney's fees and costs.

9. No county, city, local government or other political subdivision of this State or agency thereof may establish or continue any prohibition on or relating to animal testing that is not identical to the prohibitions set forth in this section and that does not include the exemptions contained in ~~subsection 2,~~ this section.

~~§~~ 10. As used in this section:

(a) "Animal testing" means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes or other body part of a live, nonhuman vertebrate.

(b) "Consumer" means a natural person.

(c) "Cosmetic" means any article intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, including, without limitation, personal hygiene products such as deodorant, shampoo or conditioner.

~~(e)~~ (d) "Ingredient" has the meaning ascribed to it in 21 C.F.R. § 700.3(e).

~~(4)~~ (e) "Manufacturer" means any person whose name appears on the label of a cosmetic pursuant to the requirements of 21 C.F.R. § 701.12.

~~(e)~~ (f) "Supplier" means any entity that supplies, directly or through a third party, any ingredient used by a manufacturer in the formulation of a cosmetic.

Sec. 2. An inventory of cosmetics which is otherwise in violation of section 1 of this act on January 1, 2020, may be sold on or before June 30, 2020.

Sec. 3. This act becomes effective on January 1, 2020.

Assemblywoman Spiegel moved the adoption of the amendment.

Remarks by Assemblywoman Spiegel.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 203.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 811.

SENATORS SPEARMAN, WOODHOUSE, PARKS; D. HARRIS, HARDY, OHRENSCHALL AND SCHEIBLE

**JOINT SPONSORS: ASSEMBLYMEN ASSEFA, GORELOW, KRASNER AND NGUYEN**

AN ACT relating to persons with disabilities; authorizing the establishment of a program to negotiate discounts and rebates for hearing devices and related costs for children who are deaf or hard of hearing; requiring the establishment of a program to provide hearing aids at no charge to certain children who reside in low-income households; providing for the establishment of criteria for evaluating the development of language and literacy skills by certain young children who are deaf, hard of hearing, blind, visually impaired or both deaf and blind; requiring the Department of Education to develop a resource for parents or guardians to measure the development of such skills by such children; requiring a team developing certain plans and programs for such children to use the established criteria to measure the development of such skills by such children; requiring the Department to publish an annual report concerning the development of such skills by such children; providing for an interim study of the feasibility of establishing a public school for pupils who are blind, visually impaired, deaf or hard of hearing; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes a program to provide assistive technology and interpreters for persons who are deaf or hard of hearing. Existing law imposes a surcharge of not more than 8 cents per month on each access line of each customer to the local exchange of any telephone company, the funds from which are used to cover the costs of the program, fund the centers established by the program and cover certain other costs. (NRS 427A.797) **Section 3.2** of this bill authorizes the Director of the Department of Health and Human Services to establish a program to negotiate discounts and rebates for hearing devices and related costs for children in this State who are deaf or hard of hearing on behalf of public and private insurers, residents of this State and other entities that provide health coverage or otherwise purchase hearing devices for such children.

**Section 3.3** of this bill requires the Aging and Disability Services Division of the Department to develop and administer a program whereby any child under 13 years of age who is hard of hearing may apply to obtain a hearing aid at no charge if the child resides in a home with a household income that is at or below 400 percent of the federal poverty level and does not have **access to affordable** insurance coverage for a hearing aid. **Section 3.3** requires the Division to establish by regulation the manner in which to apply to receive a hearing aid from the program and requires applications to be awarded to the extent money is available, in the order in which the applications are received. **Section 3.3** additionally requires the Division to annually submit a report to the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired that sets forth the number of applications received and approved during the previous calendar year and the number of children on the waiting list for a hearing aid. **Section 3.3** authorizes the Division to accept

gifts, grants and donations to pay for the program. **Section 3.8** requires the Division, in consultation with the Commission, to designate annually an amount of money in the Account for Services for Persons With Impaired Speech or Hearing that the Division must use in that calendar year to cover the costs of the program to provide assistive technology and interpreters for persons who are deaf or hard of hearing and, after designating such money, authorizes the Division to use the remaining money in the Account for certain other purposes. Such purposes include paying the costs of the program established by **section 3.3** to provide hearing aids to low-income children. **Section 3.5** of this bill makes conforming changes.

Existing law requires public schools to provide special programs and services for pupils with disabilities. (NRS 388.419, 388.429) **Section 9** of this bill requires the Superintendent of Public Instruction to establish the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired. **Section 10** of this bill requires the Committee to recommend to the State Board of Education criteria for the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired. **Section 11** of this bill requires the State Board of Education to: (1) make any revisions necessary so that the criteria recommended by the Committee meet certain requirements; (2) adopt those criteria; and (3) develop a resource for use by the parents or guardians to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired. **Section 10** also requires the Committee to make recommendations concerning certain other matters, including criteria for use by school employees and providers of services to assess the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired. **Section 12** of this bill requires the State Board to adopt such criteria after considering the recommendations of the Committee. **Section 12** also requires the Department of Education to provide to certain persons and entities that provide educational services to children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired with: (1) a summary of the criteria; and (2) training in the use of the criteria.

Existing federal law requires: (1) a local educational agency to develop an individualized education program prescribing special education and related services and supplementary aids and services for a child with a disability who is between 3 and 9 years of age; and (2) a state to establish an individualized family service plan prescribing early intervention services for a child with a disability who is less than 3 years of age. (20 U.S.C. §§ 1414, 1436) **Sections 3 and 14** of this bill require a team developing such a program or plan for a child who is deaf, hard of hearing, blind or visually impaired to use the criteria adopted by the State Board to evaluate the child's development of language and literacy skills.

**Section 13** of this bill requires the Department of Education, in collaboration with the Aging and Disability Services Division, to publish an annual report of aggregated data comparing the development of language and literacy skills by children in this State who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired with the development of such skills by such children who do not have a disability.

**Section 15** of this bill requires the Legislative Commission to appoint a committee of legislators to conduct an interim study of the feasibility of establishing a public school for pupils who are blind, visually impaired, deaf or hard of hearing.

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

**Section 1.** Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 3.3, inclusive, of this act.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3. 1.** *When developing an individualized family service plan for a child who is deaf, hard of hearing, blind or visually impaired, including, without limitation, a child who is both deaf and blind, the child's individualized family service plan team shall use the criteria prescribed pursuant to section 12 of this act, in addition to any methods of assessment required by federal law, to evaluate the child's development of language and literacy skills and to determine whether to modify the individualized family service plan. If the team determines that the child is not progressing properly in his or her development of language and literacy skills, the team must include in the plan:*

*(a) A detailed explanation of the reasons that the child is not making adequate progress; and*

*(b) Recommendations for services and programs to assist the child's development of language and literacy skills.*

**2.** *As used in this section:*

*(a) "Individualized family service plan" has the meaning ascribed to it in 20 U.S.C. § 1436.*

*(b) "Individualized family service plan team" means a multidisciplinary team assembled to develop an individualized family service plan pursuant to 20 U.S.C. § 1436(a)(3).*

**Sec. 3.2. 1.** *The Director may establish a program to negotiate discounts and rebates for hearing devices and related costs, including, without limitation, ear molds, batteries and FM systems, for children in this State who are deaf or hard of hearing on behalf of entities described in subsection 2 who participate in the program.*

**2.** *The following persons and entities may participate in a program established pursuant to subsection 1:*

*(a) The Public Employees' Benefits Program;*



(b) A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency that provides health coverage to employees through a self-insurance reserve fund pursuant to NRS 287.010;

(c) An insurer ~~licensed~~ that holds a certificate of authority to transact insurance in this State pursuant to ~~title 57~~ chapter 680A of NRS;

(d) An employer or employee organization based in this State that provides health coverage to employees through a self-insurance reserve fund;

(e) A governmental agency or nonprofit organization that purchases hearing devices for children in this State who are deaf or hard of hearing;

(f) A resident of this State who does not have coverage for hearing devices; and

(g) Any other person or entity that provides health coverage or otherwise purchases hearing devices for children in this State who are deaf or hard of hearing.

3. A person or entity described in subsection 2 may participate in any program established pursuant to subsection 1 by submitting an application to the Department in the form prescribed by the Department.

Sec. 3.3. 1. The Division shall develop and administer a program whereby any child who is less than 13 years of age whom the Division determines is hard of hearing may apply to obtain a hearing aid at no charge to the child if the child:

(a) Resides in a home in which the household income is at or below 400 percent of the federally designated level signifying poverty; and

(b) Does not have access to affordable insurance coverage for a hearing aid.

2. The Division shall establish by regulation the manner in which a person may apply to receive a hearing aid pursuant to subsection 1 and the manner in which hearing aids may be provided by the program. Applications must be approved to the extent money is available in the order in which the applications are received.

3. The Division may accept gifts, grants and donations for the purpose of carrying out the provisions of this section.

4. On or before February 15 of each year, the Division shall:

(a) Prepare a report concerning the program developed pursuant to subsection 1 which must include, without limitation, the number of applications received pursuant to subsection 1 in the previous calendar year, the number of applications that were approved, the number of children who are on the waiting list to receive a hearing aid and any other information deemed appropriate by the Division; and

(b) Submit a copy of the report to the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired, the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

**Sec. 3.5.** NRS 427A.040 is hereby amended to read as follows:

427A.040 1. The Division shall, consistent with the priorities established by the Commission pursuant to NRS 427A.038:

(a) Serve as a clearinghouse for information related to problems of the aged and aging.

(b) Assist the Director in all matters pertaining to problems of the aged and aging.

(c) Develop plans, conduct and arrange for research and demonstration programs in the field of aging.

(d) Provide technical assistance and consultation to political subdivisions with respect to programs for the aged and aging.

(e) Prepare, publish and disseminate educational materials dealing with the welfare of older persons.

(f) Gather statistics in the field of aging which other federal and state agencies are not collecting.

(g) Stimulate more effective use of existing resources and available services for the aged and aging.

(h) Develop and coordinate efforts to carry out a comprehensive State Plan for Providing Services to Meet the Needs of Older Persons. In developing and revising the State Plan, the Division shall consider, among other things, the amount of money available from the Federal Government for services to aging persons and the conditions attached to the acceptance of such money, and the limitations of legislative appropriations for services to aging persons.

(i) Coordinate all state and federal funding of service programs to the aging in the State.

2. The Division shall:

(a) Provide access to information about services or programs for persons with disabilities that are available in this State.

(b) Work with persons with disabilities, persons interested in matters relating to persons with disabilities and state and local governmental agencies in:

(1) Developing and improving policies of this State concerning programs or services for persons with disabilities, including, without limitation, policies concerning the manner in which complaints relating to services provided pursuant to specific programs should be addressed; and

(2) Making recommendations concerning new policies or services that may benefit persons with disabilities.

(c) Serve as a liaison between state governmental agencies that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities.

(d) Serve as a liaison between local governmental agencies in this State that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities. To inform local

governmental agencies in this State of services and programs of other local governmental agencies in this State for persons with disabilities pursuant to this subsection, the Division shall:

(1) Provide technical assistance to local governmental agencies, including, without limitation, assistance in establishing an electronic network that connects the Division to each of the local governmental agencies that provides services or programs to persons with disabilities;

(2) Work with counties and other local governmental entities in this State that do not provide services or programs to persons with disabilities to establish such services or programs; and

(3) Assist local governmental agencies in this State to locate sources of funding from the Federal Government and other private and public sources to establish or enhance services or programs for persons with disabilities.

(e) Administer the following programs in this State that provide services for persons with disabilities:

(1) The program established pursuant to NRS 427A.791, 427A.793 and 427A.795 to provide services for persons with physical disabilities;

(2) The programs established pursuant to NRS 427A.800, 427A.850 and 427A.860 to provide services to persons with traumatic brain injuries;

(3) *The program established pursuant to section 3.3 of this act to provide hearing aids to children who are hard of hearing;*

(4) The program established pursuant to NRS 427A.797 to provide devices for telecommunication to persons who are deaf and persons with impaired speech or hearing;

~~[(4)]~~ (5) Any state program for independent living established pursuant to 29 U.S.C. §§ 796 et seq., with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation acting as the designated state ~~unit,~~ *entity*, as that term is defined in ~~[34] 45 C.F.R. § [364.4;] 1329.4;~~ and

~~[(5)]~~ (6) Any state program established pursuant to the Assistive Technology Act of 1998, 29 U.S.C. §§ 3001 et seq.

(f) Provide information to persons with disabilities on matters relating to the availability of housing for persons with disabilities and identify sources of funding for new housing opportunities for persons with disabilities.

(g) Before establishing policies or making decisions that will affect the lives of persons with disabilities, consult with persons with disabilities and members of the public in this State through the use of surveys, focus groups, hearings or councils of persons with disabilities to receive:

(1) Meaningful input from persons with disabilities regarding the extent to which such persons are receiving services, including, without limitation, services described in their individual service plans, and their satisfaction with those services; and

(2) Public input regarding the development, implementation and review of any programs or services for persons with disabilities.

(h) Publish and make available to governmental entities and the general public a biennial report which:

(1) Provides a strategy for the expanding or restructuring of services in the community for persons with disabilities that is consistent with the need for such expansion or restructuring;

(2) Reports the progress of the Division in carrying out the strategic planning goals for persons with disabilities identified pursuant to chapter 541, Statutes of Nevada 2001;

(3) Documents significant problems affecting persons with disabilities when accessing public services, if the Division is aware of any such problems;

(4) Provides a summary and analysis of the status of the practice of interpreting and the practice of realtime captioning, including, without limitation, the number of persons engaged in the practice of interpreting in an educational setting in each professional classification established pursuant to NRS 656A.100 and the number of persons engaged in the practice of realtime captioning in an educational setting; and

(5) Recommends strategies and, if determined necessary by the Division, legislation for improving the ability of the State to provide services to persons with disabilities and advocate for the rights of persons with disabilities.

3. The Division shall confer with the Department as the sole state agency in the State responsible for administering the provisions of this chapter and chapter 435 of NRS.

4. The Division shall administer the provisions of chapters 435, 437 and 656A of NRS.

5. The Division may contract with any appropriate public or private agency, organization or institution, in order to carry out the provisions of this chapter and chapter 435 of NRS.

**Sec. 3.8.** NRS 427A.797 is hereby amended to read as follows:

427A.797 1. The Division shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange or a customer of a company that provides wireless phone service and who is certified by the Division to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication or other assistive technology capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service;

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone, including, without limitation, a wireless phone, or other means with other persons through a dual-party relay system or other assistive technology; and

(c) Interpreters are made available, when possible, to the Executive, Judicial and Legislative Departments of State Government to assist those departments in providing access to persons who are deaf or hard of hearing. The Division shall, to the extent money is available, employ one or more interpreters in the unclassified service of the State for the purposes of this paragraph.

2. The program developed pursuant to subsection 1 must include the establishment of centers for persons who are deaf or hard of hearing that provide services which must include, without limitation:

(a) Facilitating the provision and distribution of devices for telecommunication and other assistive technology to persons with impaired speech or hearing;

(b) Assisting persons who are deaf or have severely impaired speech or hearing in accessing assistive devices, including, without limitation, hearing aids, electrolarynxes and devices for telecommunication and other assistive technology;

(c) Expanding the capacity for service using devices for telecommunication and other assistive technology in areas where there is a need for such devices and technology and services for persons with impaired speech or hearing are not available;

(d) Providing instruction in language acquisition to persons determined by the center to be eligible for services; and

(e) Providing programs designed to increase access to education, employment and health and social services.

3. A surcharge of not more than 8 cents per month is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this State and on each personal wireless access line of each customer of any company that provides wireless phone services in this State. The surcharge must be used to:

(a) Cover the costs of the program;

(b) Fund the centers for persons who are deaf or hard of hearing established pursuant to subsection 2; and

(c) Cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

↪ The Public Utilities Commission of Nevada shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and transfer the money collected to the Commission pursuant to regulations adopted by the Commission.

4. The Account for Services for Persons With Impaired Speech or Hearing is hereby created within the State General Fund and must be administered by the Division. Any money collected from the surcharge imposed pursuant to subsection 3 must be deposited in the State Treasury for credit to the Account.

5. *The Division shall, in consultation with the Commission, designate annually an amount of money in the Account to be used by the Division in that calendar year only to cover the costs of the program developed pursuant to subsection 1.*

6. *After designating the amount of money to use pursuant to subsection 5, the Division may use the remaining money in the Account ~~may be used~~ only:*

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication and other assistive technology, including the distribution of such devices and technology to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies and companies that provide wireless phone services for the expenses incurred in collecting and transferring to the Public Utilities Commission of Nevada the surcharge imposed by the Commission;

(d) For the general administration of the program developed and administered pursuant to subsection 1;

(e) To train persons in the use of the devices for telecommunication and other assistive technology;

(f) To fund the centers for persons who are deaf or hard of hearing established pursuant to subsection 2; ~~and~~

(g) To cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800 ~~††~~; *and*

*(h) To cover the costs of the program established pursuant to section 3.3 of this act to provide hearing aids to children who are hard of hearing.*

~~†§†~~ 7. For the purposes of this section:

(a) *“Account” means the Account for Services for Persons With Impaired Speech or Hearing.*

(b) “Device for telecommunication” means a device which is used to send messages through the telephone system, including, without limitation, the wireless phone system, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.

~~†(b)†~~ (c) “Dual-party relay system” means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay communications through third parties to persons who do not have access to such devices.

**Sec. 4.** Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

**Sec. 5.** *As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6, 7 and 8 of this act have the meanings ascribed to them in those sections.*

**Sec. 6.** *“Individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

**Sec. 7.** *“Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

**Sec. 8.** *“Individualized family service plan” has the meaning ascribed to it in 20 U.S.C. § 1436.*

**Sec. 9. 1.** *The Superintendent of Public Instruction shall establish within the Department the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired.*

2. *The Superintendent shall appoint to the Committee 13 members who are the parents of pupils who are deaf, hard of hearing, blind or visually impaired, including, without limitation, pupils who are both deaf and blind, specialize in teaching or providing services to such children or perform research in a field relating to such children. The Committee must include, without limitation:*

*(a) At least seven members who are deaf, hard of hearing, blind or visually impaired;*

*(b) Members who communicate verbally using both American Sign Language and spoken English; and*

*(c) Members who communicate verbally using only spoken English.*

3. *The Superintendent of Public Instruction shall appoint a Chair of the Committee. The Committee shall meet at the call of the Chair. A majority of the members of the Committee constitutes a quorum and is required to transact any business of the Committee.*

4. *The members of the Committee serve without compensation and are not entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

5. *A member of the Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Committee to:*

*(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Committee; or*

*(b) Take annual leave or compensatory time for the absence.*

Sec. 10. *The Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired shall:*

1. *Recommend to the State Board criteria for use by parents or guardians to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind. The criteria must be:*

*(a) Appropriate for use to evaluate the development of language and literacy skills by children who:*

*(1) Communicate using primarily spoken or written English, with or without the use of visual supplements, or American Sign Language; or*

*(2) Read using braille;*

*(b) Described in terms used to describe the typical development of children, including, without limitation, children who do not have a disability, and according to the age of the child;*

*(c) Aligned with the standards adopted pursuant to NRS 389.520 for English language arts and any standards adopted pursuant to that section for early childhood education; and*

*(d) Aligned with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any other federal law applicable to the assessment of the development of children with disabilities.*

*2. Make recommendations to the State Board and, where appropriate, the Aging and Disability Services Division of the Department of Health and Human Services concerning:*

*(a) The development of criteria pursuant to section 12 of this act;*

*(b) The examination of children with disabilities pursuant to NRS 388.433; and*

*(c) Ways to improve the assessment of language and literacy skills by children who are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind.*

*Sec. 11. 1. The State Board shall evaluate the criteria recommended by the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired pursuant to section 10 of this act for use by parents or guardians to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind. If the State Board determines that the criteria recommended by the Committee pursuant to section 10 of this act:*

*(a) Meet the requirements of that section, adopt the criteria for the purposes described in subsection 2.*

*(b) Do not meet the requirements of that section, revise the criteria in a manner that meets the requirements of that section and adopt the revised criteria for the purposes described in subsection 2.*

*2. The Department shall develop a written resource for use by parents or guardians to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind. The written resource must:*

*(a) Describe how to use the criteria adopted pursuant to subsection 1 to evaluate the development of language and literacy skills by children who are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind;*

*(b) Be written clearly and present the criteria in a manner that is easy for parents to use;*

*(c) State that parents have the right to select whether to evaluate the development of language and literacy skills by their child using American Sign Language, spoken or written English, with or without the use of visual supplements or braille, as applicable;*



*(d) State that the resource is not a formal assessment of the development of language and literacy skills and that the observations by a parent may differ from data presented at a meeting concerning an individualized education program or individualized family service plan;*

*(e) State that a parent may bring the resource to a meeting concerning an individualized education program or individualized family service plan for purposes of sharing observations concerning the development of language and literacy skills by his or her child; and*

*(f) Include balanced and comprehensive information about languages, modes of communication and available services and programs for children who are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind.*

*3. The Department shall disseminate the resource to parents or guardians described in subsection 2, including, without limitation, by:*

*(a) Making written copies of the resource available at locations and events where such parents or guardians are likely to be present;*

*(b) Posting the resource on an Internet website maintained by the Department; and*

*(c) Providing written copies of the resource to the Aging and Disability Services Division of the Department of Health and Human Services for distribution to such parents or guardians who receive services from the Division.*

*Sec. 12. 1. The State Board shall, after considering the recommendations made by the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired pursuant to section 10 of this act, prescribe by regulation criteria for use by school employees and providers of services to assess the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind. The criteria must:*

*(a) Be based on criteria and assessments developed by persons and entities with expertise in the development of language and literacy skills by children, including, without limitation, children without a disability, who are less than 6 years of age; and*

*(b) Be organized according to stages of development of language and literacy skills.*

*2. The Department shall:*

*(a) Distribute to school districts, charter schools, the Aging and Disability Services Division of the Department of Health and Human Services and other entities that provide educational services to children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, a summary of the criteria prescribed pursuant to subsection 1; and*

*(b) Provide to employees of the entities described in paragraph (a) training concerning the use of the criteria to assist children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, in developing the language and literacy skills necessary for kindergarten. Such training must include, without limitation, training concerning children who communicate using spoken English and children who communicate using American Sign Language.*

**Sec. 13.** *On or before July 31 of each year, the Department of Education, in collaboration with the Aging and Disabilities Services Division of the Department of Health and Human Services, shall compile and post on an Internet website maintained by the Department of Education a report of aggregated data comparing the development of language and literacy skills by children in this State who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, with the development of such skills by such children who do not have a disability. The report must not include any personally identifiable information.*

**Sec. 14.** NRS 388.437 is hereby amended to read as follows:

388.437 1. When developing an individualized education program for a pupil with a hearing impairment in accordance with NRS 388.419, the pupil's individualized education program team shall consider, without limitation:

(a) The related services and program options that provide the pupil with an appropriate and equal opportunity for communication access;

(b) The pupil's primary communication mode;

(c) The availability to the pupil of a sufficient number of age, cognitive, academic and language peers of similar abilities;

(d) The availability to the pupil of adult models who are deaf or hearing impaired and who use the pupil's primary communication mode;

(e) The availability of special education teachers, interpreters and other special education personnel who are proficient in the pupil's primary communication mode;

(f) The provision of academic instruction, school services and direct access to all components of the educational process, including, without limitation, advanced placement courses, career and technical education courses, recess, lunch, extracurricular activities and athletic activities;

(g) The preferences of the parent or guardian of the pupil concerning the best feasible services, placement and content of the pupil's individualized education program; and

(h) The appropriate assistive technology necessary to provide the pupil with an appropriate and equal opportunity for communication access.

2. *When developing an individualized education program for a pupil with a hearing or visual impairment who is less than 6 years of age, including, without limitation, such a pupil with both hearing and visual impairments, in accordance with NRS 388.419, the pupil's individualized*

*education program team shall use the criteria prescribed pursuant to section 12 of this act, in addition to any methods of assessment required by federal law, to evaluate the pupil's development of language and literacy skills and to determine whether to modify the individualized education program. If the team determines that the pupil is not making adequate progress in the development of language and literacy skills, the team must include in the plan:*

*(a) A detailed explanation of the reasons that the pupil is not making adequate progress; and*

*(b) Recommendations for services and programs to assist the pupil's development of language and literacy skills.*

3. When determining the best feasible instruction to be provided to the pupil in his or her primary communication mode, the pupil's individualized education program team may consider, without limitation:

- (a) Changes in the pupil's hearing or vision;
- (b) Development in or availability of assistive technology;
- (c) The physical design and acoustics of the learning environment; and
- (d) The subject matter of the instruction to be provided.

**Sec. 15.** 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the feasibility of establishing a public school for pupils who are blind, visually impaired, deaf or hard of hearing. The interim study must address, without limitation, potential sources of funding for such a school.

2. The committee must be composed of:

- (a) Two members of the Legislature appointed by the Majority Leader of the Senate;
- (b) Two members of the Legislature appointed by the Speaker of the Assembly;
- (c) One member of the Legislature appointed by the Minority Leader of the Senate; and
- (d) One member of the Legislature appointed by the Minority Leader of the Assembly.

3. The Legislative Commission shall appoint a Chair and a Vice Chair from among the members of the interim committee.

4. The interim committee shall consult with and solicit input from persons and organizations who advocate for or provide services to children who are blind, visually impaired, deaf or hard of hearing.

5. Any recommended legislation proposed by the interim committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the interim committee.

6. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Nevada Legislature.

**Sec. 16.** 1. The Department of Education shall compile sets of criteria for evaluating the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, developed by persons and entities with expertise in the development of language and literacy skills by children, including, without limitation, children without a disability. On or before March 1, 2020, the Department shall provide those sets of criteria to the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired established pursuant to section 9 of this act.

2. On or before June 1, 2020, the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired shall recommend criteria for:

(a) Use by parents or guardians to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, to the State Board of Education for adoption pursuant to section 11 of this act.

(b) Use by school employees and providers of services to evaluate the development of language and literacy skills by children who are less than 6 years of age and are deaf, hard of hearing, blind or visually impaired, including, without limitation, children who are both deaf and blind, to the State Board of Education for adoption pursuant to section 12 of this act.

3. On or before June 30, 2020, the Department of Education shall:

(a) Adopt the criteria described in subsection 2; and

(b) Notify the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired of any revisions made to the criteria recommended by the Committee pursuant to paragraph (a) of subsection 2 before adoption.

**Sec. 17.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 18.** 1. This section and sections 1, 2, 4 to 13, inclusive, 15, 16 and 17 of this act become effective upon passage and approval.

2. Sections 3.2, 3.3, 3.5 and 3.8 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of those sections; and

(b) On January 1, 2020, for all other purposes.

3. Sections 3 and 14 of this act become effective on July 1, 2020.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 221.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:  
Amendment No. 781.

AN ACT relating to trespassing; revising provisions governing warnings against trespassing; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law makes it a misdemeanor for a person to go upon the land or into any building of another in certain circumstances, including willfully going or remaining on land or in a building after being warned by the owner or occupant thereof not to trespass. For the purposes of determining whether a person has been given sufficient warning not to trespass, the owner or occupant of land may: (1) paint the area in a certain manner depending on the use of the land; (2) fence the area; or (3) make an oral or written demand to vacate the land or building. (NRS 207.200)

This bill: (1) revises provisions governing the requirements for painting certain posts, structures or natural objects to remove the distinction based on the use of the land; (2) provides that posting "no trespassing" signs in certain areas provides sufficient warning against trespass; (3) provides that using an area as cultivated land provides sufficient warning against trespass; and (4) defines the term "cultivated land" for such purposes.

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

**Section 1.** NRS 207.200 is hereby amended to read as follows:

207.200 1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass,  
→ is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

2. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:

(a) ~~If the land is used for agricultural purposes or for herding or grazing livestock, by painting~~ **Painting** with fluorescent orange paint:

(1) Not less than 50 square inches ~~of the exterior portion~~ of a structure or natural object or the top 12 inches ~~of the exterior portion~~ of a post, whether made of wood, metal or other material, at:

(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and

(II) Each corner of the land, upon or near the boundary; and

(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;

(b) ~~If the land is not used in the manner specified in paragraph (a), by painting with fluorescent orange paint not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material, at:~~

~~— (1) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 200 feet; and~~

~~— (2) Each corner of the land, upon or near the boundary;~~

~~— (e) Fencing the area; ~~or~~~~

~~— (d) (c) Posting “no trespassing” signs or other notice of like meaning at:~~

~~(1) Intervals of such a distance as is necessary to ensure that at least one such sign would be within the direct line of sight of a person standing next to another such sign, but at intervals of not more than ~~1,000~~ 500 feet; and~~

~~(2) Each corner of the land, upon or near the boundary;~~

~~(d) Using the area as cultivated land; or~~

~~(e) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.~~

3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.

4. An entryman on land under the laws of the United States is an owner within the meaning of this section.

5. As used in this section:

(a) **“Cultivated land” means land that has been cleared of its natural vegetation and is presently planted with a crop.** ~~[orchard, grove, pasture or trees or is fallow land as part of a crop rotation.]~~

(b) “Fence” means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain link or wire mesh fence. The term does not include a barrier made of barbed wire.

~~— (b) (c) “Guest” means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170.~~

**Sec. 2.** This act becomes effective on July 1, 2019.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 224.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 832.

AN ACT relating to public retirement systems; providing for the confidentiality of certain information; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the Public Employees' Retirement Board is required to administer the Judicial Retirement System, the Legislators' Retirement System and the Public Employees' Retirement System. (NRS 1A.100, 218C.150, 286.120) Existing law makes the official correspondence and records of those public retirement systems, other than the files of individual members, public records. (NRS 1A.100, 218C.200, 286.110)

Under existing law, a record of a governmental entity is public and open to inspection unless the confidentiality of the record or the information in the record is specifically provided for by law. (NRS 239.010)

**Section 1** of this bill generally makes information about a current or former member of a public retirement system administered by the Public Employees' Retirement Board, or a beneficiary of such a member, confidential. **Section 1** further provides, however, that the following information relating to such a current or former member which is contained in a record or file in the possession, control or custody of the Board is a public record: (1) the ~~[identification number]~~ name of such a person; and (2) the ~~[last public employer of the person]~~; (3) the number of years of service credit such a person has with the public retirement system; (4) the retirement date of the person; (5) ~~the~~ amount of annual pension benefit paid to the person .; ~~and (6) whether the person is receiving a disability or service retirement allowance.]~~

**Section 1** also prohibits the Board from disclosing confidential information about a member or beneficiary to a third party unless: (1) the disclosure is necessary for the Board to carry out its duties; and (2) the Board executes a confidentiality agreement with the third party before providing the third party with any confidential information. **Sections 2-6** of this bill make conforming changes.

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

**Section 1.** Chapter 286 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in this section, all information about a current or former member of a public retirement system administered by the Board, or a beneficiary of such a member, which is contained in a record or file in the possession, control or custody of the Board is confidential regardless of the form, location and manner of creation or storage of a record or file containing the information.*

2. *The following information about a current or former member of such a public retirement system which is contained in a record or file in the possession, control or custody of the Board is a public record:*

(a) *The ~~identification number~~ name of the current or former member;*  
*and*

(b) ~~*The last public employer of the current or former member;*~~

~~*(c) The number of years of service credit the current or former member has with the public retirement system;*~~

~~*(d) The retirement date of the current or former member;*~~

~~*(e) The amount of annual pension benefit paid to the current or former member . . . and*~~

~~*(f) Whether the current or former member receives a disability retirement allowance or a service retirement allowance from the public retirement system.*~~

3. *The Board may only disclose information made confidential pursuant to subsection 1 to a third party if:*

(a) *Such disclosure is necessary for the Board to carry out its duties; and*

(b) *The Board executes a confidentiality agreement with the third party before providing the third party with any confidential information.*

~~*4. As used in this section “identification number” means the unique number assigned by the public retirement system to the record or file of each current or former member or beneficiary of such a member.*~~

Sec. 2. NRS 286.110 is hereby amended to read as follows:

286.110 1. A system of retirement providing benefits for the retirement, disability or death of employees of public employers and funded on an actuarial reserve basis is hereby established and must be known as the Public Employees’ Retirement System. The System is a public agency supported by administrative fees transferred from the retirement funds. The Executive and Legislative Departments of the State Government shall regularly review the System.

2. The System is entitled to use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration, but is not required to use any other service. The purpose of this subsection is to provide to the Board the necessary autonomy for an efficient and economic administration of the System and its program.

3. ~~*The*~~ *Except as otherwise provided in section 1 of this act, the* official correspondence and records ~~*, other than the files of individual members or retired employees,*~~ and, except as otherwise provided in NRS 241.035, the minutes, audio recordings, transcripts and books of the System are public records and are available for public inspection. A copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

4. The respective participating public employers are not liable for any obligation of the System.



**Sec. 3.** NRS 286.117 is hereby amended to read as follows:

286.117 ~~{}AHH~~ *Except as otherwise provided in section 1 of this act, all records and files* maintained for a member, retired employee or beneficiary may be reviewed and copied only by the System, the member, the member's public employer or spouse, or the retired employee or the retired employee's spouse, or pursuant to a court order, or by a beneficiary after the death of the employee on whose account benefits are received. Any member, retired employee or beneficiary may submit a written waiver to the System authorizing the representative of the member, retired employee or beneficiary to review or copy all such records.

**Sec. 4.** NRS 1A.100 is hereby amended to read as follows:

1A.100 1. A system of retirement providing benefits for the retirement, disability or death of all justices of the Supreme Court, judges of the Court of Appeals and district judges, and certain justices of the peace and municipal judges, and funded on an actuarial reserve basis is hereby established and must be known as the Judicial Retirement System.

2. The System consists of the Judicial Retirement Plan and the provisions set forth in NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, and 3.090 to 3.099, inclusive, for providing benefits to justices of the Supreme Court, judges of the Court of Appeals or district judges who served either as a justice of the Supreme Court or district judge before November 5, 2002. Each justice of the Supreme Court, judge of the Court of Appeals or district judge who is not a member of the Public Employees' Retirement System is a member of the Judicial Retirement System.

3. ~~{}The~~ *Except as otherwise provided in section 1 of this act, the* official correspondence and records ~~{}other than the files of individual members of the System or retired justices or judges,}~~ and, except as otherwise provided in NRS 241.035, the minutes, audio recordings, transcripts and books of the System are public records and are available for public inspection. A copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

4. The System must be administered exclusively by the Board, which shall make all necessary rules and regulations for the administration of the System. The rules must include, without limitation, rules relating to the administration of the retirement plans in accordance with federal law. The Legislature shall regularly review the System.

**Sec. 5.** NRS 1A.110 is hereby amended to read as follows:

1A.110 ~~{}AHH~~ *Except as otherwise provided in section 1 of this act, all records and files* maintained for a member of the System, retired justice or judge, justice of the Supreme Court, judge of the Court of Appeals or district judge who retired pursuant to NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, or 3.090 to 3.099, inclusive, or the beneficiary of any of them may be reviewed and copied only by the System, the member, the Court Administrator, the board of county commissioners if the records concern a justice of the peace or retired justice of the peace whom the board of county

commissioners allowed to participate in the Judicial Retirement Plan pursuant to NRS 1A.285, the city council if the records concern a municipal judge or retired municipal judge whom the city council allowed to participate in the Judicial Retirement Plan pursuant to NRS 1A.285, the spouse of the member, or the retired justice or judge or his or her spouse, or pursuant to a court order, or by a beneficiary after the death of the justice or judge on whose account benefits are received pursuant to the System. Any member, retired justice or judge, justice of the Supreme Court, judge of the Court of Appeals or district judge who retired pursuant to NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, or 3.090 to 3.099, inclusive, or beneficiary may submit a written waiver to the System authorizing his or her representative to review or copy all such records.

**Sec. 6.** NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,

396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **section 1 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

**Sec. 7.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 762.

AN ACT relating to public construction; revising the procedure for determining the prevailing rate of wages; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires that mechanics and workers employed on certain public construction projects be paid at least the wage prevailing in the county in which the project is located for the type of work that the mechanic or worker performs. (NRS 338.020) Existing law also prescribes the manner in which the Labor Commissioner must determine the prevailing wage for such a project. (NRS 338.030) **Section 3** of this bill: (1) removes these specific requirements with which the Labor Commissioner must comply in determining the prevailing rate of wages; and (2) reduces the frequency by which the Labor Commissioner is required to survey contractors from annually to biennially. Because existing law authorizes the Labor Commissioner to adopt such regulations as necessary to enable him or her to carry out his or her duties, the

Labor Commissioner may establish the manner of determining the prevailing rate of wages by regulation. (NRS 338.012)

**Section 3** also changes the geographical area for which the prevailing rate of wages is determined from a county to a region. **Section 1** of this bill establishes four such regions: (1) the Washoe Prevailing Wage Region; (2) the Northern Rural Prevailing Wage Region; (3) the Clark Prevailing Wage Region; and (4) the Southern Rural Prevailing Wage Region. **Section 2** of this bill makes a conforming change. Thus, mechanics and workers employed on public construction projects on which prevailing wages are required to be paid must be paid at least the wage prevailing in the region in which the project is located for their craft or type of work.

**Section 3** requires the Labor Commissioner to issue a determination of the prevailing rate of wages on October 1 of the odd-numbered year in which the survey was conducted and makes this rate effective for 2 years unless the rate is adjusted by the Labor Commissioner. Finally, **section 3** requires the Labor Commissioner to adjust the prevailing rate of wages on October 1 of each ~~odd-numbered~~ even-numbered year ~~[and reissue the rate]~~ if: (1) the Labor Commissioner determined in the previous odd-numbered year that the prevailing rate of wages was collectively bargained and the collective bargaining agreement provides for such an adjustment; or (2) the Labor Commissioner determined in the previous odd-numbered year that the prevailing rate of wages was not collectively bargained and any change in the Consumer Price Index for All Urban Consumers, West Region (All Items) has occurred since October 1 of the previous odd-numbered year. **Section 3 requires the Labor Commissioner to reissue the rates, including any adjusted rates, on October 1 of each even-numbered year.**

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*For the purpose of determining the prevailing rate of wages pursuant to NRS 338.030, four prevailing wage regions are hereby established in this State as follows:*

- 1. The Washoe Prevailing Wage Region consisting of Washoe County;*
- 2. The Northern Rural Prevailing Wage Region consisting of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Storey, Pershing and White Pine;*
- 3. The Clark Prevailing Wage Region consisting of Clark County; and*
- 4. The Southern Rural Prevailing Wage Region consisting of the counties of Esmeralda, Lincoln and Nye.*

**Sec. 2.** NRS 338.020 is hereby amended to read as follows:

338.020 1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public

work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers. The hourly and daily rate of wages must:

(a) Not be less than the rate of such wages then prevailing in the ~~county~~ **region** in which the public work is located, which prevailing rate of wages must have been determined in the manner provided in NRS 338.030; and

(b) Be posted on the site of the public work in a place generally visible to the workers.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workers so employed applies and must be stated clearly to such mechanics and workers when employed.

3. Except as otherwise provided in subsection 4, a contractor or subcontractor shall pay to a mechanic or worker employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour the mechanic or worker works on the public work in excess of:

(a) Forty hours in any scheduled week of work by the mechanic or worker for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or

(b) Eight hours in any workday that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless by mutual agreement the mechanic or worker works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

4. The provisions of subsection 3 do not apply to a mechanic or worker who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one-half times the rate of wages set forth in the collective bargaining agreement for work in excess of:

(a) Forty hours in any scheduled week of work; or

(b) Eight hours in any workday unless the collective bargaining agreement provides that the mechanic or worker shall work a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

5. The prevailing wage and any wages paid for overtime pursuant to subsection 3 or 4 to each class of mechanics or workers must be in accordance with the jurisdictional classes recognized in the ~~locality~~ **region** where the work is performed.

6. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.

**Sec. 3.** NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the ~~county~~ **region established pursuant to section 1 of this act** in which the public work is to be performed for each craft or type of work.

2. The prevailing wage in each ~~county, including Carson City,~~ **such region** must be ~~established as follows:~~

~~(a) The~~ **determined by the** Labor Commissioner . **To determine the prevailing wage in each region, the Labor Commissioner** shall, ~~annually,~~ **in each ~~even-numbered~~ odd-numbered year**, survey contractors who have performed work in the ~~county,~~ **region.**

~~(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50 percent of the total hours worked by each craft or type of work in that county on construction similar to the proposed construction, that rate will be determined as the prevailing wage.~~

~~(c) Where no such rate can be determined, the prevailing wage for a craft or type of work will be determined as the average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type of work.~~

~~(d)~~ **3.** The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to ~~paragraphs (a), (b) and (c)~~ **subsection 2** for:

(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and

(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a school district or the Nevada System of Higher Education.

~~3.~~ **4.** Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection ~~6~~ **7** to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any ~~county,~~ **region.**

~~4.~~ **5.** The Labor Commissioner shall hold a hearing in the ~~locality,~~ **region** in which the work is to be executed if the Labor Commissioner:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection ~~3~~ **4.**

↪ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any ~~county,~~ **region.**

~~5.~~ **6.** Notice of the hearing must be advertised in a newspaper ~~nearest to the locality of~~ **in the region in which** the work **is to be executed** once a week for 2 weeks before the time of the hearing.

~~6.~~ **7.** At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the ~~locality,~~ **region** or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~7.~~ **8.** The wages so determined must be ~~filed~~ :

(a) *Issued* by the Labor Commissioner *on October 1 of the odd-numbered year in which the survey was conducted and, except as otherwise provided in subsection 9, remain effective for 2 years after that date;* and ~~{must be}~~

(b) *Made available by the Labor Commissioner* to any public body which awards a contract for any public work.

~~18.1~~ **9.** *On October 1 of each ~~{odd-numbered}~~ even-numbered year, the Labor Commissioner shall:*

(a) *Adjust the prevailing rate of wages:*

(1) *If the Labor Commissioner ~~{determines}~~ determined in the previous odd-numbered year that the prevailing rate of wages for a class of workers who perform the craft or type of work ~~{is}~~ was a wage which ~~{has been}~~ was collectively bargained, ~~{pursuant to subsection 3,}~~ in accordance with the signed collective bargaining agreement that is on file with the Labor Commissioner, if the collective bargaining agreement provides for such an adjustment on or before October 1 of that ~~{odd-numbered}~~ even-numbered year; or*

(2) ~~{If}~~ *If the Labor Commissioner determined in the previous odd-numbered year that the prevailing rate of wage for a class of workers who perform the craft or type of work was not a wage which was collectively bargained, in accordance with the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the United States Department of Labor or, if that index ceases to be published by the United States Department of Labor, the published index that most closely resembles that index, as determined by the Labor Commissioner, if any change in that index has occurred since October 1 of the previous odd-numbered year; and*

(b) *Reissue the prevailing rate of wages for each class of workers who perform the craft or type of work, including any rates required to be adjusted pursuant to paragraph (a).*

**10.** Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** The provisions of NRS 338.030, as amended by section 3 of this act, apply to any rate of prevailing wages determined by the Labor Commissioner pursuant to that section on or after July 1, 2019.

**Sec. 6.** The amendatory provisions of this act do not apply to any contract to which the provisions of NRS 338.020 to 338.090, inclusive, apply, that is awarded before July 1, 2019.

**Sec. 7.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.



Senate Bill No. 250.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 752.

AN ACT relating to water; establishing certain requirements relating to the dedication of certain rights to appropriate water; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the State Engineer to require the dedication of a right to appropriate water in certain circumstances before approving a parcel map. (NRS 534.120) Existing law also authorizes the governing body of a county or city to adopt ordinances to regulate land, which may include an ordinance that requires the dedication of a right to appropriate water before approving the development, division or subdivision of a parcel of land. (NRS 278.020) **Sections 1 and 3** of this bill provide that before a supplier of water may require the dedication of a right to appropriate water in order to ensure a sufficient supply of water to certain parcels, the dedication requirement must be: (1) required pursuant to an ordinance, ~~published~~ rule, ~~or~~ regulation **or any other requirement** adopted by the supplier of water; and (2) based on certain information and considerations. **Sections 1 and 3** prohibit, with limited exception, a supplier of water from selling, **leasing, conveying or transferring** a right to appropriate water that has been dedicated pursuant to an ordinance, ~~published~~ rule, ~~or~~ regulation **or other requirement** adopted by the supplier of water.

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

**Section 1.** Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. Before a supplier of water may require the dedication of a right to appropriate water in order to ensure a sufficient supply of water to provide new or modified water service to one or more parcels, the dedication requirement must:**

- (a) Be required pursuant to an ordinance, ~~published~~ rule, ~~or~~ regulation or any other requirement adopted by the supplier of water;**
- (b) Be based on reliable data and procedures estimating demand;**
- (c) Consider any requirements for a sustainable water supply; and**
- (d) Consider historic usage by similar existing water services.**

**2. Except as otherwise provided in this subsection, a supplier of water may not sell, lease, convey or transfer a right to appropriate water that has been dedicated pursuant to subsection 1. This subsection does not apply to:**

- (a) Mergers and acquisitions of a water system owned or operated by a utility; ~~or~~**

~~(b) Transactions Sales by the supplier of water in furtherance of developing or maintaining a sustainable water supply ~~for~~; or~~

~~(c) Settlements of judicial or administrative proceedings concerning a water system owned or operated by a utility.~~

3. As used in this section ~~for~~ “~~supplier~~”:

~~(a) “Modified water service” means a change or alteration to:~~

~~(1) The quantity of water delivered to one or more parcels;~~

~~(2) The capacity to deliver water to one or more parcels; or~~

~~(3) Any facility of the supplier of water necessitated by construction on one or more parcels.~~

~~(b) “Supplier of water” has the meaning ascribed to it in NRS 540.121. It includes, without limitation:~~

~~(1) Any county, city, town, local improvement district, general improvement district and water conservancy district;~~

~~(2) Any water district, water system, water project or water planning and advisory board created by a special act of the Legislature;~~

~~(3) A public utility; and~~

~~(4) Any other public or private entity.~~

~~that supplies water for municipal, industrial or domestic purposes.~~

Sec. 2. (Deleted by amendment.)

Sec. 3. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before a supplier of water may require the dedication of a right to appropriate water in order to ensure a sufficient supply of water to provide new or modified water service to one or more parcels that will be developed, divided or subdivided pursuant to the provisions of this section and NRS 278.010 to 278.630, inclusive, the dedication requirement must:

(a) Be required pursuant to an ordinance, ~~published~~ rule ~~or~~ regulation or any other requirement adopted by the supplier of water;

(b) Be based on reliable data and procedures estimating demand;

(c) Consider any requirements for a sustainable water supply; and

(d) Consider historic usage by similar existing water services.

2. A supplier of water may not sell, lease, convey or transfer a right to appropriate water that has been dedicated pursuant to subsection 1. This subsection does not apply to:

(a) Mergers and acquisitions of a water system owned or operated by a utility; ~~or~~

~~(b) Transactions Sales by the supplier of water in furtherance of developing or maintaining a sustainable water supply ~~for~~; or~~

~~(c) Settlements of judicial or administrative proceedings concerning a water system owned or operated by a utility.~~

3. As used in this section ~~for~~ “~~supplier~~”:

~~(a) “Modified water service” means a change or alteration to:~~

~~(1) The quantity of water delivered to one or more parcels;~~

~~(2) The capacity to deliver water to one or more parcels; or~~

(3) Any facility of the supplier of water necessitated by construction on one or more parcels.

(b) "Supplier of water" ~~has the meaning ascribed to it in NRS 540.121.~~ includes, without limitation:

(1) Any county, city, town, local improvement district, general improvement district and water conservancy district;

(2) Any water district, water system, water project or water planning and advisory board created by a special act of the Legislature;

(3) A public utility; and

(4) Any other public or private entity,

↳ that supplies water for municipal, industrial or domestic purposes.

Sec. 4. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 278.0103 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. (Deleted by amendment.)

**Sec. 6. The provisions of this act must not be applied in such a manner as to affect, impair or discharge any outstanding contracts or obligations of the State, any political subdivision of the State or other public entity that involve a dedicated right to appropriate water existing on the effective date of this act.**

~~{Sec. 6.}~~ Sec. 7. This act becomes effective upon passage and approval.

Assemblywoman Swank moved the adoption of the amendment.

Remarks by Assemblywoman Swank.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:52 p.m.

#### ASSEMBLY IN SESSION

At 1:55 p.m.

Mr. Speaker presiding.

Quorum present.

Senate Bill No. 267.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 783.

SENATOR SPEARMAN

~~{SPONSOR: ASSEMBLYWOMAN}~~ **SPONSORS: ASSEMBLYWOMEN SPIEGEL AND PETERS**

AN ACT relating to education; requiring the identification of social and environmental factors that affect the educational experience of pupils at each public school; requiring the consideration of those factors in certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the State Board of Education to adopt such regulations as necessary for the execution of the powers and duties conferred on it by law. (NRS 385.080) This bill requires the State Board to adopt regulations that require the board of trustees of each school district and the governing body of each charter school to identify the social and environmental factors that affect the educational experience of pupils at each school in the district or the charter school, as applicable. This bill requires the Department of Education, a board of trustees, a governing body and the staff of a school to consider those factors when making decisions concerning the school or interacting with and making decisions concerning the staff and pupils of a school.

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

**Section 1.** Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

*The State Board shall adopt regulations that require:*

*1. The board of trustees of each school district and the governing body of each charter school to identify the social and environmental factors that affect the educational experience of pupils at each school in the district or the charter school, as applicable, and provide a description of those factors to the Department; and*

*2. The Department, the board of trustees of each school district, the governing body of each charter school and the staff of each public school to consider the factors identified pursuant to subsection 1 for a school when making decisions concerning the school or interacting with and making decisions concerning the staff of the school or pupils enrolled at the school. Such decisions include, without limitation, decisions concerning the allocation of money, the provision of integrated student supports pursuant to NRS 388.885, evaluations of members of the staff of the school pursuant to NRS 391.650 to 391.830, inclusive, salaries of members of the staff of the school and the discipline of pupils.*

**Sec. 2.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 279.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 763.

AN ACT relating to general improvement districts; requiring the board of trustees of a general improvement district to follow certain procedures before selling real property owned by the district; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the board of trustees of a general improvement district to dispose of real property owned by the district. (NRS 318.160) This bill sets forth various requirements to be met in order for the board to sell such real property.

**Section 2** of this bill: (1) requires, with limited exception, the board of trustees to obtain two independent appraisals of real property; and (2) prohibits, with limited exception, the board from selling the real property for less than the ~~appraised value.~~ **average of the appraisals.** **Section 3** of this bill requires the board to adopt procedures for creating and maintaining a list of qualified appraisers.

**Section 4** of this bill requires a board of trustees, before ordering the sale of real property, to adopt a resolution at a public meeting: (1) declaring the intent of the board to sell the real property; (2) finding that the sale is in the best interest of the district; and (3) fixing a time for an additional public meeting of the board at which sealed bills for the real property will be considered. **Section 4** also sets forth certain public notice requirements for: (1) the first meeting where the board may adopt such a resolution; and (2) the second meeting at which the property may be sold. **Section 5** of this bill sets forth the procedures for selling the real property at the second meeting. **Section 6** of this bill authorizes the board to not comply with such procedures if, under certain circumstances, the board sells the property to an adjacent property owner, the State or another governmental entity.

**Section 7** of this bill authorizes the board of trustees to: (1) offer the property for sale a second time if the real property is not sold at the initial offering; and (2) list the property for sale with a real estate broker if the real property is not sold at the second offering.

**Section 8** of this bill provides that any sale of real property by a board of trustees is void if the sale violates any of the requirements or procedures previously described.

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

**Section 1.** Chapter 318 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

**Sec. 2.** *Except as otherwise provided in NRS 318.1177, 318.118 and 318.215:*

**1.** *Before ordering any real property of the district for sale, the board of trustees must:*

*(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the real property. If the board of trustees holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling the real property. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the real property is offered for sale.*

*(b) Select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to section 3 of this act.*

*(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of trustees as to the qualifications of the appraiser is conclusive.*

**2.** *The board of trustees shall not sell the property for less than:*

*(a) If two independent appraisals were obtained pursuant to subsection 1, ~~the highest appraised value.~~ average of the appraisals of the real property.*

*(b) If one appraisal is obtained pursuant to subsection 1, the appraised value ~~of~~ of the real property.*

**Sec. 3. 1.** *The board of trustees shall adopt by resolution the procedures for creating and maintaining a list of appraisers qualified to conduct appraisals of real property offered for sale by the board. The list must:*

*(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and*

*(b) Be organized at random and rotated from time to time.*

**2.** *An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.*

**3.** *An appraiser shall not perform an appraisal on any real property for sale by the board of trustees if:*

*(a) The appraiser has an interest in the real property or an adjoining property;*

*(b) The real property is located in a county whose population is 45,000 or more and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the third degree of consanguinity or affinity; or*

*(c) The real property is located in a county whose population is less than 45,000 and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the second degree of consanguinity or affinity.*

*Sec. 4. 1. Except as otherwise provided in NRS 318.1177, 318.118 and 318.215 and section 6 of this act, before ordering the sale of any real property owned by the general improvement district, the board of trustees shall, in open meeting by a majority vote of the members, adopt a resolution declaring the intention of the board to sell the property at auction and finding that the sale is in the best interest of the district. The resolution must:*

*(a) Describe the property proposed to be sold in such a manner as to identify the property.*

*(b) Specify the minimum price and the terms upon which the property will be sold.*

*(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board of trustees to be held at its regular place of meeting, at which sealed bids will be received and considered.*

*2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:*

*(a) Posting copies of the resolution in three public places in the district not less than 15 days before the date of the meeting; and*

*(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:*

*(1) A description of the real property proposed to be sold at auction in such a manner as to identify the property;*

*(2) The minimum price of the real property proposed to be sold at auction; and*

*(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.*

*↳ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within the county.*

*Sec. 5. 1. At the time and place fixed in the resolution for the meeting of the board of trustees adopted pursuant to section 4 of this act, all sealed bids which have been received must, in public session, be opened, examined and declared by the board. Of the bids submitted which conform to all terms and conditions specified in the resolution of intention to sell and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.*

2. *Before accepting any written bid, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.*

3. *The final acceptance of a bid by the board may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.*

4. *The board may, either at the same session or at any adjourned session of the same meeting held within the 10 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale.*

5. *Any resolution of acceptance of any bid made by the board must authorize and direct the chair to execute a deed and to deliver it upon performance and compliance by the purchaser with all the terms or conditions of the purchaser's contract which are to be performed concurrently therewith.*

6. *All money received from sales of real property must be deposited forthwith with the treasurer of the board to be credited to the district fund.*

7. *The board may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the board in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded if the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.*

Sec. 6. *A board of trustees may sell any real property owned by the district without complying with the provisions of sections 4 and 5 of this act to:*

1. *A person who owns real property located adjacent to the real property to be sold if the board has determined by resolution that the sale will be in the best interest of the district and the real property is a:*

(a) *Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale; or*

(b) *Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale.*

2. *The State or another governmental entity if:*

(a) *The sale restricts the use of the real property to a public use; and*

(b) *The board adopts a resolution finding that the sale will be in the best interest of the district.*

Sec. 7. 1. *If real property that is offered for sale pursuant to sections 4 and 5 of this act is not sold at the initial offering of the contract for the sale*



*of the real property, the board of trustees may offer the real property for sale a second time pursuant to sections 4 and 5 of this act. The board of trustees must obtain a new appraisal or appraisals, as applicable, of the real property before offering the real property for sale a second time if:*

*(a) There is a material change relating to the title, zoning or an ordinance governing the use of the real property; or*

*(b) The appraisal or appraisals, as applicable, were prepared more than 6 months before the date on which the real property is offered for sale the second time.*

*2. If real property that is offered for sale pursuant to this section is not sold at the second offering of the contract for the sale of the real property, the board of trustees may list the real property for sale at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property. If the appraisal or appraisals, as applicable, were prepared more than 6 months before the date on which the real property is listed with a licensed real estate broker, the board must obtain one new appraisal of the real property before listing the real property for sale at the new appraised value.*

**Sec. 8.** *Any sale of real property of a district that does not comply with the provisions of sections 2 to 7, inclusive, of this act is void.*

**Sec. 9.** NRS 318.160 is hereby amended to read as follows:

318.160 ~~The~~ *Except as otherwise provided in sections 2 to 8, inclusive, of this act, the* board shall have the power to acquire, dispose of and encumber real and personal property, and any interest therein, including leases, easements, and revenues derived from the operation thereof. The constitutional and inherent powers of the legislature are hereby delegated to the board for the acquisition, disposal and encumbrance of property; but the board shall in no case receive title to property already devoted to public purpose or use, except with the consent of the owners of such property, and except upon approval of a majority of the board.

**Sec. 10.** NRS 318.220 is hereby amended to read as follows:

318.220 1. ~~Any~~ *Except as otherwise provided in sections 2 to 8, inclusive, of this act, any* municipality, county, special district or owner may sell, lease, grant, convey, transfer or pay over to any district, with or without consideration, any project or any part thereof or any interest in real or personal property or any money available for construction or improvement purposes, including the proceeds of bonds issued before, on or after March 30, 1959, for construction or improvement purposes which may be used by the district in the construction, improvement, maintenance or operation of any project.

2. Any municipality, county or special district is also authorized to transfer, assign and set over to any district any contracts which may have been awarded by the municipality, county or special district for the construction of projects not begun or, if begun, not completed.

3. The territory being served by any project or the territory within which the project is authorized to render service at the time of the acquisition of the project by a district must include the area served by the project and the area in which the project is authorized to serve at the time of acquisition and any other area into which the service may be extended within the district. If an election is required either by general law or charter provision to authorize the transfer, such election must be called and conducted as provided by law.

**Sec. 11.** NRS 318A.390 is hereby amended to read as follows:

318A.390 1. ~~Any~~ ***Except as otherwise provided in sections 2 to 8, inclusive, of this act, any*** county, city, special district or owner may sell, lease, grant, convey, transfer or pay over to any district, with or without consideration, any facility, improvement or project, or any part thereof, or any interest in real or personal property or any money available for the construction, improvement, maintenance or operation of any facility, improvement or project.

2. Any county, city or special district may transfer, assign and set over to any district any contracts which may have been awarded by the county, city or special district for the construction of facilities, improvements or projects not begun or completed.

**Sec. 12.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 300.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 722.

AN ACT relating to electric utilities; authorizing an electric utility to file an application for the establishment of an alternative rate-making plan; requiring the Public Utilities Commission of Nevada to adopt regulations governing the filing of such an application; revising the dates for the filing of general rate applications by electric utilities; **repealing certain duties of the Commission relating to determining the impact of net metering on rates charged by electric utilities**; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 16** of this bill requires the Public Utilities Commission of Nevada to adopt regulations establishing procedures for an electric utility to apply to the Commission for the approval of an alternative rate-making plan, which establishes the alternative rate-making mechanisms that the utility is authorized to use to set rates during the time period of the plan. The regulations adopted by the Commission must: (1) establish the alternative rate-making mechanisms that may be included in a plan and any limitations on such

alternative rate-making mechanisms; (2) provide the information that must be included in an alternative rate-making plan and an application for the approval of such a plan; (3) specify the circumstances under which an electric utility for which an alternative rate-making plan has been approved must file a general rate application; (4) provide a process to educate customers of an electric utility regarding alternative rate-making mechanisms; **(5) require an electric utility for which an alternative rate-making plan has been approved to keep certain records;** and ~~[(5)]~~ **(6)** establish criteria for the evaluation of an alternative rate-making plan.

**Section 17** of this bill authorizes an electric utility to submit an application to establish an alternative rate-making plan pursuant to the regulations adopted by the Commission, establishes time limits for the Commission to approve or deny such an application and requires the Commission to conduct a consumer session before taking action on such an application. ~~Section 17 authorizes the Commission to extend the time for an electric utility to submit its next general rate application while an application for the approval of an alternative rate-making plan is pending before the Commission.~~ **Section 17** requires an application for the approval of an alternative rate-making plan to include a plan to educate the customers of the electric utility regarding the alternative rate-making mechanisms in the plan proposed by the utility. **Section 17** provides that the Commission may only approve an application for the approval of an alternative rate-making plan if the Commission determines that the plan meets certain requirements. **Section 17** also authorizes an alternative rate-making plan to include certain provisions, including a mechanism for earnings sharing with the customers of the utility ~~;~~ ~~a provision authorizing the filing of a complaint against the utility;~~ and a term or condition waiving the requirement for the utility to file a general rate application every 36 months. **Finally, section 17 authorizes the Commission to investigate and change rates, tolls, charges, rules, regulations, practices and service relating to an alternative rate-making plan under certain circumstances.** **Section 19** of this bill makes a conforming change.

**Section 20** of this bill revises the dates by which electric utilities must file general rate applications.

**Section 21.5 of this bill eliminates a requirement for the Commission to open an investigatory docket to establish methods to determine the impact of net metering on rates charged by an electric utility and to submit a biennial report to the Legislature concerning the impact of net metering on such rates. Sections 3.1-3.9 and 20.1-20.7 of this bill make conforming changes.**

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

- Section 1.** (Deleted by amendment.)
- Sec. 2.** (Deleted by amendment.)
- Sec. 3.** (Deleted by amendment.)

**Sec. 3.1. NRS 701.380 is hereby amended to read as follows:**

701.380 1. The Director shall:

(a) Coordinate the activities and programs of the Office of Energy with the activities and programs of the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(b) Spend the money in the Trust Account for Renewable Energy and Energy Conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing distributed generation systems and on-site generation systems and net metering systems that use renewable energy.

(c) Take any other actions that the Director deems necessary to carry out the duties of the Office of Energy, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Director in carrying out the duties of the Office.

2. The Director shall prepare an annual report concerning the activities and programs of the Office of Energy and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Account for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the Office of Energy and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section:

(a) “Distributed generation system” means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed:

- (1) That uses renewable energy as defined in NRS 704.7811 to generate electricity;
- (2) That is located on the property of a customer of an electric utility;
- (3) That is connected on the customer’s side of the electricity meter;
- (4) That provides electricity primarily to offset customer load on that property; and
- (5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive.

(b) “Electric utility” has the meaning ascribed to it in NRS 704.7571.

**Sec. 3.2. NRS 701A.200 is hereby amended to read as follows:**

701A.200 1. For purposes of the assessment of property pursuant to chapter 361 of NRS:

(a) Except as otherwise provided in paragraph (b), a qualified system is exempt from taxation.

(b) A qualified system is not exempt from taxation:

(1) During any period in which the qualified system is subject to another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS; or

(2) If the system is constructed after July 1, 2009, and is part of a facility which is eligible for a partial abatement of taxes pursuant to NRS 701A.360.

2. The Nevada Tax Commission shall adopt such regulations as it determines to be necessary for the administration of this section.

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in or adjacent to one or more buildings or an irrigation system in an agricultural operation to heat or cool the building or buildings or water used in the building or buildings, or to provide electricity used in the building or buildings or irrigation system regardless of whether the owner of the system, building or buildings or irrigation system participates in net metering pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive, by using:

- (a) Energy from the wind or from solar devices;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

↪ which conforms to standards established by regulation of the Nevada Tax Commission.

**Sec. 3.3. NRS 701B.055 is hereby amended to read as follows:**

701B.055 “Distributed generation system” means a system or facility for the generation of electricity:

1. That uses solar energy to generate electricity;
2. That is located on the property of a customer of an electric utility;
3. That is connected on the customer's side of the electricity meter;
4. That provides electricity primarily to offset customer load on that property; and
5. The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 3.5. NRS 701B.280 is hereby amended to read as follows:**

701B.280 To be eligible for an incentive through the Solar Program, a solar energy system must meet the requirements for participation in net metering pursuant to the provisions of NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 3.7. NRS 701B.650 is hereby amended to read as follows:**

701B.650 To be eligible for an incentive through the Wind Demonstration Program, a wind energy system must meet the requirements for participation in net metering pursuant to the provisions of NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 3.9. NRS 701B.880 is hereby amended to read as follows:**

701B.880 To be eligible for an incentive through the Waterpower Demonstration Program, the waterpower energy system must meet the requirements for participation in net metering pursuant to the provisions of NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 4.** Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.

**Sec. 5.** *As used in sections 5 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 6.** *“Alternative rate-making mechanism” means a rate-making mechanism in an alternative rate-making plan and includes, without limitation, performance-based rates, formula rates, multi-year rate plans, subscription pricing, an earnings-sharing mechanism, decoupling mechanism or any other rate-making mechanism authorized by the Commission by regulation.*

**Sec. 7.** *“Alternative rate-making plan” means a plan that would implement one or more alternative rate-making mechanisms to be used in addition to or in place of the rate-making process established by NRS 704.110.*

**Sec. 8.** *“Decoupling mechanism” means a mechanism that disassociates an electric utility's financial performance and results from the sales of electricity by the electric utility.*

**Sec. 9.** *“Earnings-sharing mechanism” means a mechanism designed by the Commission that requires an electric utility to share earnings with its*

~~fully bundled~~ customers ~~if such earnings are above a specific percentage of return on equity.~~

Sec. 10. "Electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 11. "Formula rates" means rates that are periodically adjusted based on a predetermined formula approved by the Commission without the need for an electric utility to file a general rate application pursuant to NRS 704.110.

Sec. 12. ~~["Fully bundled customer" means a customer of an electric utility who receives energy, transmission, distribution and ancillary services from the electric utility.]~~ (Deleted by amendment.)

Sec. 13. "Multi-year rate plan" means a rate mechanism under which the Commission sets rates and revenue requirements for a multi-year plan period of more than 36 months, including, without limitation, a plan which authorizes periodic changes in rates, including, without limitation, adjustments to accounts for inflation or capital investments, without a general rate application.

Sec. 14. "Performance-based rates" means rates that are set or adjusted based on the performance of an electric utility as determined by such performance metrics as the Commission may establish.

Sec. 15. "Subscription pricing" means a rate offering to the customers of an electric utility that is based upon a set, subscription-based fee and may include other conditions for the subscription-based rate.

Sec. 16. The Commission shall adopt regulations to establish procedures for an electric utility to apply to the Commission for the approval of an alternative rate-making plan. The regulations must:

1. Establish the alternative rate-making mechanisms that may be included in such a plan and any limitations on such alternative rate-making mechanisms as the Commission deems appropriate, including, without limitation, any restrictions on the types of alternative rate-making mechanisms that may be used in concert within the same alternative rate-making plan.

2. Provide the information that must be included in an alternative rate-making plan and an application submitted pursuant to the regulations adopted pursuant to this section.

3. Specify the circumstances under which an electric utility for which the Commission has approved an alternative rate-making plan is required to file a general rate application pursuant to NRS 704.110 including, without limitation, if the alternative rate-making plan ceases to meet the criteria established by the Commission pursuant to subsection ~~5~~ 7.

4. Provide a process to educate customers of an electric utility regarding the available alternative rate-making mechanisms that may be included in an alternative rate-making plan.

5. Establish requirements for an electric utility for which the Commission has approved an alternative rate-making plan to keep or cause

to be kept any information and records which the utility would have been required to submit to the Commission as part of an application pursuant to NRS 704.110 or 704.187, if the filing of any such application is delayed or excused pursuant to the alternative rate-making plan.

6. If the Commission determines that it is practicable, require an electric utility to include in its application for the approval of an alternative rate-making plan:

(a) One or more cost of service studies.

(b) An analysis estimating and comparing:

(1) The rates that would be charged and the revenue that would be collected under the alternative rate-making plan proposed in the application; and

(2) The rates that would be charged and the revenue that would be collected pursuant to the rate-making process established by NRS 704.110.

7. Establish criteria for the evaluation of an alternative rate-making plan which may include, without limitation, whether the plan:

(a) Aligns an economically viable utility model with state public policy goals.

(b) Provides for just and reasonable rates that are comparable to rates established pursuant to NRS 704.110.

(c) Enables the delivery of electric service and options for services and pricing that customers value including, without limitation, the development and the use of renewable resources by customers that prioritize such resources above other factors, including price.

(d) Fosters statewide improvements to the economic and operational efficiency of the electrical grid.

(e) Furthers the public interest including, without limitation, the promotion of safe, economic, efficient and reliable electric service to all customers of the electric utility.

(f) Enhances the resilience and security of the electrical grid while addressing concerns regarding customer privacy.

(g) Ensures that customers of an electric utility benefit from lower regulatory administrative costs where appropriate.

(h) Facilitates the research and development of innovative electric utility services and options to benefit customers.

(i) Balances the interests of customers and shareholders by providing for services that customers want while preserving reasonable shareholder value.

~~6.7~~ 8. The Commission is not required to accept applications to establish an alternative rate-making plan if the Commission determines, after a reasonable investigation, that the use of alternative rate-making plan is not consistent with the criteria established by the Commission pursuant to subsection ~~5.7~~ 7.

Sec. 17. 1. Except as otherwise provided in subsection ~~6.7~~ 8 of section 16 of this act, and in accordance with the regulations adopted by the Commission pursuant to section 16 of this act ~~5.7~~ ;



(a) Not sooner than the first Monday in January 2020, an electric utility that primarily serves less densely populated counties may apply to the Commission to establish an alternative rate-making plan which sets forth the alternative rate-making mechanisms to be used to establish rates during the time period covered by the plan.

(b) Not sooner than the first Monday in January 2021, an electric utility that primarily serves densely populated counties may apply to the Commission to establish an alternative rate-making plan which sets forth the alternative rate-making mechanisms to be used to establish rates during the time period covered by the plan.

2. The Commission shall approve, with or without modifications, or deny ~~the~~ an application submitted pursuant to subsection 1 not later than 210 days after the Commission receives a copy of the application unless the Commission, upon good cause, extends by not more than 90 days the time to act upon the application. If the Commission fails to act upon an application within the time provided by this subsection, the application shall be deemed to be denied.

~~[ 2. Upon the request of an electric utility, the Commission may extend the time by which the electric utility is required to file its next general rate application pursuant to subsection 3 of NRS 704.110 while the application submitted pursuant to subsection 1 is pending.]~~

3. The Commission shall conduct at least one consumer session pursuant to NRS 704.069 to solicit comments from the public before taking action on an application submitted pursuant to subsection 1.

4. The Commission shall not approve an application submitted pursuant to subsection 1 unless the Commission determines that the plan:

- (a) Is in the public interest;
- (b) Results in just and reasonable rates ~~for the fully bundled customers of the electric utility,~~ as determined by the Commission;
- (c) ~~[Adequately protects]~~ Protects the interests of the customers of the electric ~~[consumers,]~~ utility;
- (d) Satisfies the criteria established by the Commission pursuant to subsection ~~[5]~~ 7 of section 16 of this act;
- (e) Specifies the time period to which the plan applies; and
- (f) Includes a plan for educating the customers of the electric utility regarding the alternative rate-making mechanisms included in the plan.

5. An alternative rate-making plan may include, without limitation:

(a) An earnings-sharing mechanism that balances the interests of ~~retail~~ customers that purchase electricity for consumption in this State and the shareholders of the electric utility.

~~(b) [A provision authorizing any customer or the Commission to initiate a complaint or investigation pursuant to NRS 704.120.~~

~~(c)] A term or condition waiving the requirement that the electric utility file a general rate application every 36 months pursuant to subsection 3 of~~

**NRS 704.110 ~~is~~ or extending beyond 36 months the time between required general rate application filings.**

~~(d)~~ **(c) Any other term or condition proposed by an electric utility or any party participating in the proceeding or that the Commission finds is reasonable and serves the public interest.**

**6. The Commission may at any time, upon its own motion or after receiving a complaint from any customer, the Consumer's Advocate or the Regulatory Operations Staff of the Commission, investigate any of the rates, tolls, charges, rules, regulations, practices and service relating to an alternative rate-making plan, and, after a full hearing as provided in NRS 704.120, by order, make such changes as may be just and reasonable to the same extent as authorized by NRS 704.120.**

**7. As used in this section:**

**(a) "Electric utility that primarily serves densely populated counties" has the meaning ascribed to it in NRS 704.110.**

**(b) "Electric utility that primarily serves less densely populated counties" has the meaning ascribed to it in NRS 704.110.**

**Sec. 18. The provisions of sections 5 to 18, inclusive, of this act must not be construed to limit the existing rate-making authority of the Commission.**

**Sec. 19. NRS 704.100 is hereby amended to read as follows:**

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095, ~~704.097~~ ~~or~~ ***section 17 of this act:***

(a) A public utility shall not make changes in any schedule, unless the public utility:

(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f) or (g).

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 10 of NRS 704.110.

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the

application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue in an amount that does not exceed \$15,000:

(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

↪ A letter of advice filed pursuant to this paragraph must include a certification by the attorney for the public utility or an affidavit by an authorized representative of the public utility that to the best of the signatory's knowledge, information and belief, formed after a reasonable inquiry, the proposed change in schedule does not change any rate or result in an increase in the annual gross operating revenue of the public utility in an amount that exceeds \$15,000.

(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less:

(1) The small-scale provider of last resort may file the proposed change with the Commission using a letter of advice in lieu of filing an application if the small-scale provider of last resort:

(I) Includes with the letter of advice a certification by the attorney for the small-scale provider of last resort or an affidavit by an authorized representative of the small-scale provider of last resort that to the best of the signatory's knowledge, information and belief, formed after a reasonable inquiry, the proposed change in schedule does not change any rate or result in an increase in the annual gross operating revenue of the small-scale provider of last resort in an amount that exceeds \$50,000 or 10 percent, whichever is less;

(II) Demonstrates that the proposed change in schedule is required by or directly related to a regulation or order of the Federal Communications Commission; and

(III) Except as otherwise provided in subsection 2, files the letter of advice not later than 5 years after the Commission has issued a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

↪ Not later than 10 business days after the filing of a letter of advice pursuant to subparagraph (1), the Regulatory Operations Staff of the Commission or any other interested party may file with the Commission a request that the Commission order an applicant to file a general rate application in accordance

with subsection 3 of NRS 704.110. The Commission may hold a hearing to consider such a request.

(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. An applicant that is a small-scale provider of last resort may submit to the Commission a written request for a waiver of the 5-year period specified in sub-subparagraph (III) of subparagraph (1) of paragraph (g) of subsection 1. The Commission shall, not later than 90 days after receipt of such a request, issue an order approving or denying the request. The Commission may approve the request if the applicant provides proof satisfactory to the Commission that the applicant is not earning more than the rate of return authorized by the Commission and that it is in the public interest for the Commission to grant the request for a waiver. The Commission shall not approve a request for a waiver if the request is submitted later than 7 years after the issuance by the Commission of a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110. If the Commission approves a request for a waiver submitted pursuant to this subsection, the applicant shall file the letter of advice pursuant to subparagraph (1) of paragraph (g) of subsection 1 not earlier than 120 days after the date on which the applicant submitted the request for a waiver pursuant to this subsection, unless the order issued by the Commission approving the request for a waiver specifies a different period for the filing of the letter of advice.

3. As used in this section, “electric utility” has the meaning ascribed to it in NRS 704.187.

**Sec. 20.** NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095, ~~for~~ 704.097 ~~+~~ **or section 17 of this act:**

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer’s Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application ~~not~~:

(1) *Not* later than 5 p.m. on or before the first Monday in June ~~[2010,]~~ 2019; and ~~at least once~~

(2) *Once* every 36 months thereafter ~~+~~ *or on a date specified in an alternative rate-making plan approved by the Commission pursuant to section 17 of this act.*

(b) An electric utility that primarily serves densely populated counties shall file a general rate application ~~not~~:

(1) *Not* later than 5 p.m. on or before the first Monday in June ~~[2011,]~~ 2020; and ~~at least once~~

(2) *Once* every 36 months thereafter ~~+~~ *or on a date specified in an alternative rate-making plan approved by the Commission pursuant to section 17 of this act.*

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general

rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

➔ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under

consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 10, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 10; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate

adjustments, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.

9. If the Commission approves a request to make any rate adjustments on a quarterly basis pursuant to subsection 8:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of natural gas included in each quarterly filing and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public



utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

10. An electric utility shall adjust its rates on a quarterly basis based on changes in the electric utility's recorded costs of purchased fuel or purchased power. In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.

11. A quarterly rate adjustment filed pursuant to subsection 10 is subject to the following requirements:

(a) The electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of purchased fuel and purchased power included in each quarterly filing and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

13. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto, or the retirement or elimination of a utility facility identified in an emissions reduction and capacity replacement plan submitted pursuant to NRS 704.7316

and accepted by the Commission for retirement or elimination pursuant to NRS 704.751 and the regulations adopted pursuant thereto, shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing, or retiring or eliminating, as applicable, such a facility. For the purposes of this subsection, a plan or an amendment to a plan shall be deemed to be accepted by the Commission only as to that portion of the plan or amendment accepted as filed or modified with the consent of the utility pursuant to NRS 704.751.

14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.

16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the public interest.

17. As used in this section:

(a) "Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(c) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.

(d) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers

located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.

**Sec. 20.1. NRS 704.741 is hereby amended to read as follows:**

704.741 1. A utility which supplies electricity in this State shall, on or before June 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission. Two or more utilities that are affiliated through common ownership and that have an interconnected system for the transmission of electricity shall submit a joint plan.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility or utilities to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility or utilities to include in the plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources.

(b) A proposal for the expenditure of not less than 5 percent of the total expenditures related to energy efficiency and conservation programs on energy efficiency and conservation programs directed to low-income customers of the electric utility.

(c) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity that includes the deployment of distributed generation.

(d) An analysis of the effects of the requirements of NRS 704.766 to ~~704.777~~, **704.776**, inclusive, on the reliability of the distribution system of the utility or utilities and the costs to the utility or utilities to provide electric service to all customers. The analysis must include an evaluation of the costs and benefits of addressing issues of reliability through investment in the distribution system.

(e) A list of the utility's or utilities' assets described in NRS 704.7338.

(f) A surplus asset retirement plan as required by NRS 704.734.

4. The Commission shall require the utility or utilities to include in the plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility or utilities in meeting the portfolio standard established by NRS 704.7821.

5. The Commission shall require the utility or utilities to include in the plan a distributed resources plan. The distributed resources plan must:

(a) Evaluate the locational benefits and costs of distributed resources. This evaluation must be based on reductions or increases in local generation capacity needs, avoided or increased investments in distribution infrastructure, safety benefits, reliability benefits and any other savings the distributed resources provide to the electricity grid for this State or costs to customers of the electric utility or utilities.

(b) Propose or identify standard tariffs, contracts or other mechanisms for the deployment of cost-effective distributed resources that satisfy the objectives for distribution planning.

(c) Propose cost-effective methods of effectively coordinating existing programs approved by the Commission, incentives and tariffs to maximize the locational benefits and minimize the incremental costs of distributed resources.

(d) Identify any additional spending necessary to integrate cost-effective distributed resources into distribution planning consistent with the goal of yielding a net benefit to the customers of the electric utility or utilities.

(e) Identify barriers to the deployment of distributed resources, including, without limitation, safety standards related to technology or operation of the distribution system in a manner that ensures reliable service.

6. As used in this section:

(a) “Carbon intensity” means the amount of carbon by weight emitted per unit of energy consumed.

(b) “Distributed generation system” has the meaning ascribed to it in NRS 701.380.

(c) “Distributed resources” means distributed generation systems, energy efficiency, energy storage, electric vehicles and demand-response technologies.

(d) “Renewable energy zones” means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

**Sec. 20.2. NRS 704.766 is hereby amended to read as follows:**

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to ~~704.777,~~ **704.776,** inclusive, to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State;
3. Enhance the continued diversification of the energy resources used in this State; and
4. Streamline the process for customers of a utility to apply for and install net metering systems.

**Sec. 20.3. NRS 704.767 is hereby amended to read as follows:**

704.767 As used in NRS 704.766 to ~~704.777,~~ **704.776,** inclusive, unless the context otherwise requires, the words and terms defined in NRS 704.7675 to 704.772, inclusive, have the meanings ascribed to them in those sections.

**Sec. 20.4. NRS 704.773 is hereby amended to read as follows:**

704.773 1. A utility shall offer net metering in accordance with the provisions of NRS 704.766 to ~~704.777,~~ 704.776, inclusive, to the customer-generators operating within its service area.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Except as otherwise provided in subsection 7, shall not charge the customer-generator any fee or charge that is different than that charged to other customers of the utility in the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system.

(d) Shall not reduce the minimum monthly charge of the customer-generator based on the electricity generated by the customer-generator and fed back to the utility.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (d) and subsection 7, shall not charge the customer-generator any fee or charge that is different than that charged to other customers of the utility in the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system, including, without limitation, customer, demand and facility charges.

(c) Shall not reduce the minimum monthly charge of the customer-generator based on the electricity generated by the customer-generator and fed back to the utility.

(d) Shall not charge the customer-generator any standby charge.

4. At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by subsection 3 to pay the entire cost of the installation or upgrade of the portion of the net metering system.

5. Except as otherwise provided in subsections 2, 3 and 6 and NRS 704.7732, the utility shall not for any purpose assign a customer-generator to a rate class other than the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system, including, without limitation, for the purpose of any fee or charge.

6. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

↳ the net metering system ceases to be eligible to participate in net metering.

7. A utility shall assess against a customer-generator:

(a) If applicable, the universal energy charge imposed pursuant to NRS 702.160; and

(b) Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the customer-generator.

↳ For any such charges calculated on the basis of a kilowatt-hour rate, the customer-generator must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.

8. The Commission and the utility must allow a customer-generator who accepts the offer of the utility for net metering to continue net metering pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive, at the location at which the net metering system is originally installed for 20 years. For the purposes of this subsection, "to continue net metering" includes, without limitation:

(a) Retaining the percentage set forth in subsection 3 of NRS 704.7732 to be used to determine the credit for electricity governed by paragraph (c) of subsection 2 of NRS 704.775, which is applicable to the customer-generator; and

(b) Replacing the originally installed net metering system, as needed, at any time before 20 years after the date of the installation of the originally installed net metering system.

9. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

↳ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 20.5. NRS 704.776 is hereby amended to read as follows:**

704.776 If the Legislature provides by law for an open, competitive retail electric energy market for all electricity customers within a service territory:

1. Each person providing electric service in that service territory shall be deemed to be a utility for the purposes of NRS 704.766 to ~~704.777~~, 704.776, inclusive;

2. The Commission or any other agency designated by law to regulate electric service in this State shall prohibit any person providing electric service in the service territory from impeding or interrupting the operation or performance or otherwise restrict the output of an existing net metering system; and

3. A customer-generator must be required to pay any costs charged to other customers of the person providing electric service to the customer-generator in the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system.

**Sec. 20.6. NRS 704.7815 is hereby amended to read as follows:**

704.7815 “Renewable energy system” means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 20.7. NRS 598.9804 is hereby amended to read as follows:**

598.9804 “Distributed generation system” means a system or facility for the generation of electricity:

1. That uses solar energy to generate electricity;

2. That is located on the property of a customer of an electric utility;

3. That is connected on the customer’s side of the electricity meter;

4. That provides electricity primarily to offset customer load on that property; and

5. The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to ~~704.777~~, 704.776, inclusive.

**Sec. 21.** The provisions of this act must not be construed to invalidate the effectiveness of any rate, charge, classification or joint rate fixed by the Commission before the effective date of this act, and such rates, charges, classifications and joint rates remain in force, and are prima facie lawful, from the date of the order of the Commission fixing such rates, charges,



classifications and joint rates until changed or modified by the Commission, or pursuant to NRS 703.373 to 703.376, inclusive.

**Sec. 21.5. NRS 704.777 is hereby repealed.**

**Sec. 22.** This act becomes effective upon passage and approval.

**TEXT OF REPEALED SECTION**

**704.777 Commission required to open investigatory docket to establish methods to determine impact of net metering on rates; biennial report to Legislature.**

**1. The Commission shall open an investigatory docket to establish a methodology to determine the impact, if any, of net metering pursuant to NRS 704.766 to 704.777, inclusive, on rates charged by a utility to its customers in this State.**

**2. On or before June 30, 2020, and biennially thereafter, the Commission shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report concerning the impact of net metering pursuant to NRS 704.766 to 704.777, inclusive, on rates charged by a utility to its customers in this State. The report must contain:**

**(a) Based on the methodology established pursuant to subsection 1, calculations of:**

**(1) Whether net metering pursuant to NRS 704.766 to 704.777, inclusive, has an impact on rates charged by a utility to its customers in this State; and**

**(2) The amount of any increase or decrease in such rates as a result of net metering pursuant to NRS 704.766 to 704.777, inclusive;**

**(b) An explanation of the methodology used to make the calculations required by paragraph (a);**

**(c) The data used to make the calculations required by paragraph (a), including, without limitation, avoided generation capacity, avoided transmission and generation capacity and avoided system upgrades;**

**(d) A comparison of the impact on rates of net metering pursuant to NRS 704.766 to 704.777, inclusive, and the impact on rates of capital expenditures by the utility;**

**(e) A description of the process for obtaining input from stakeholders in developing the methodology required by subsection 1; and**

**(f) A summary of comments on the written report from interested persons.**

Assemblywoman Monroe-Moreno moved the adoption of the amendment.

Remarks by Assemblywoman Monroe-Moreno.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 302.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 764.

AN ACT relating to privacy; requiring a governmental agency to comply, to the extent practicable, with certain standards with respect to the collection, dissemination and maintenance of records containing personal information of a resident of this State; **prohibiting the Legislative Auditor from including certain information in the report of an audit; requiring the Legislative Auditor to report certain information concerning the security of the information system of an agency of the State under certain circumstances**; authorizing a governmental agency to require a person to submit a record containing personal information by electronic means; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a data collector, including a governmental agency, that maintains records which contain personal information of a resident of this State to implement and maintain reasonable security measures to protect such records. (NRS 603A.210) **Section 1** of this bill requires a data collector that is a governmental agency to comply, to the extent practicable, with certain standards published by the Center for Internet Security, Inc. or the National Institute of Standards and Technology of the United States Department of Commerce with respect to the collection, dissemination and maintenance of records containing personal information. **Section 1** requires the Office of Information Security of the Division of Enterprise Information Technology Services of the Department of Administration to create, maintain and make available to the public a list of controls and standards that the State is required to comply with pursuant to federal law that also satisfy the standards and controls set forth in **section 1**.

Existing law requires the Legislative Auditor to conduct a postaudit of all accounts, funds and other records of all agencies of the State to determine certain information, including the compliance of the agency with applicable laws and regulations. (NRS 218G.200) **Section 2** of this bill specifies that such applicable laws and regulations include, without limitation, the standards regarding records containing personal information set forth in **section 1**. **Section 1.5** of this bill ~~provides that all records and information relating to an audit conducted for such purposes, other than a statement indicating whether the agency is complying with the standards set forth in section 1, are confidential.~~ **prohibits the Legislative Auditor from including in the report of an audit any information the Legislative Auditor determines could potentially expose this State to a breach of the security of an information system of an agency of this State. Section 1.5 further requires the Legislative Auditor to report to the Governor, the Chair of the Legislative Commission, the Chair of the Audit Subcommittee of the**

**Legislative Commission and the head of an affected agency any vulnerability in the information system of an agency of this State that the Legislative Auditor discovers during the course of an audit and determines poses a serious threat to the security of the information system.**

Existing law authorizes each governmental agency of this State to determine whether, and the extent to which, it will accept electronic records. (NRS 719.350) Existing law prohibits a governmental agency from requiring a person to include personal information on any document submitted to the governmental agency on or after January 1, 2007, unless required pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant. (NRS 239B.030) **Section 3** of this bill authorizes a governmental agency to require a person to submit a document that is required to contain personal information by electronic means. **Section 3** further authorizes a governmental agency to establish procedures by which a person may apply for and receive a waiver from such a requirement.

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

**Section 1.** NRS 603A.210 is hereby amended to read as follows:

603A.210 1. A data collector that maintains records which contain personal information of a resident of this State shall implement and maintain reasonable security measures to protect those records from unauthorized access, acquisition, destruction, use, modification or disclosure.

2. *If a data collector is a governmental agency and maintains records which contain personal information of a resident of this State, the data collector shall, to the extent practicable, with respect to the collection, dissemination and maintenance of those records, comply with the current version of the CIS Controls as published by the Center for Internet Security, Inc. or its successor organization, or corresponding standards adopted by the National Institute of Standards and Technology of the United States Department of Commerce.*

3. A contract for the disclosure of the personal information of a resident of this State which is maintained by a data collector must include a provision requiring the person to whom the information is disclosed to implement and maintain reasonable security measures to protect those records from unauthorized access, acquisition, destruction, use, modification or disclosure.

~~{3-}~~ 4. If a state or federal law requires a data collector to provide greater protection to records that contain personal information of a resident of this State which are maintained by the data collector and the data collector is in compliance with the provisions of that state or federal law, the data collector shall be deemed to be in compliance with the provisions of this section.

5. *The Office of Information Security of the Division of Enterprise Information Technology Services of the Department of Administration shall create, maintain and make available to the public a list of controls and*

*standards with which the State is required to comply pursuant to any federal law, regulation or framework that also satisfy the controls and standards set forth in subsection 2.*

Sec. 1.5. Chapter 218G of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. A report of an audit conducted by the Legislative Auditor pursuant to NRS 218G.200 to determine whether an agency of the State is complying with the standards regarding records containing personal information set forth in NRS 603.210 must not contain only a statement that the agency, as applicable:~~

~~(a) Has adequately complied with the standards set forth in NRS 603A.210; or~~

~~(b) Has not adequately complied with the standards set forth in NRS 603A.210.~~

~~2. Except as otherwise provided in subsection 1, any records or other information relating to an audit described in subsection 1, including, without limitation, any records containing information which would be required to be kept confidential pursuant to NRS 242.105, are confidential and not subject to inspection by the general public, that the Legislative Auditor determines could potentially expose this State to a breach of the security of an information system of an agency of this State.~~

2. If the Legislative Auditor discovers, in the course of an audit, a vulnerability in an information system of an agency of the State that the Legislative Auditor determines poses a serious threat to the security of the information system, the Legislative Auditor shall report the vulnerability immediately to the Governor, the Chair of the Legislative Commission, the Chair of the Audit Subcommittee and the head of the agency affected.

3. As used in this section, "information system" has the meaning ascribed to it in NRS 242.057.

Sec. 2. NRS 218G.200 is hereby amended to read as follows:

218G.200 1. The Legislative Auditor shall perform a postaudit of all accounts, funds and other records of all agencies of the State to determine one or any combination of the following:

(a) Whether the financial statements of the audited agency comply with generally accepted principles of accounting.

(b) The honesty and integrity of fiscal affairs, the accuracy and reliability of information and reports, and the effectiveness of the system of management controls of the audited agency.

(c) Compliance with all applicable laws and regulations ~~††~~, *including, without limitation, compliance with the standards regarding records containing personal information set forth in NRS 603A.210.*

(d) Whether the operations of the agency of the State have been conducted in accordance with its contractual obligations.

(e) Whether control by management and the system of information provide an adequate and efficient system of records and accounting.

2. Every officer and employee of an agency of the State shall aid and assist the Legislative Auditor at such times as the Legislative Auditor requires in the inspection, examination and audit of any books, accounts and records in their possession.

**Sec. 2.5.** ~~NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,~~

~~463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0064, 598.008, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, and section 1.5 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

~~2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.~~

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential~~

~~information from the information included in the public book or record that is not otherwise confidential.~~

~~4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.~~

~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself. (Deleted by amendment.)~~

**Sec. 3.** NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in subsections 2, 3 and ~~6,~~ 8, a person shall not include and a governmental agency shall not require a person to include any personal information about a person on any document that is recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007.

2. If personal information about a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2007, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency shall ensure that the personal information is maintained in a confidential manner and may only disclose the personal information as required:

(a) To carry out a specific state or federal law; or

(b) For the administration of a public program or an application for a federal or state grant.

↪ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

3. *If personal information about a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2021, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency may require a person to record, file or otherwise submit such a document by electronic means.*

4. *A governmental agency may establish procedures by which a person may apply for and receive a waiver from a requirement imposed pursuant to subsection 3. Such procedures must:*

(a) *Authorize the governmental agency to waive a requirement imposed pursuant to subsection 3 for good cause shown;*

(b) *Require such a waiver to be effective for not less than 24 months; and*

(c) *Allow a person who has been granted a waiver to reapply for and obtain additional waivers.*

5. A governmental agency shall take necessary measures to ensure that notice of the provisions of this section is provided to persons with whom it conducts business. Such notice may include, without limitation, posting notice in a conspicuous place in each of its offices.

~~4.1~~ 6. A governmental agency may require a person who records, files or otherwise submits any document to the governmental agency to provide an affirmation that the document does not contain personal information about any person or, if the document contains any such personal information, identification of the specific law, public program or grant that requires the inclusion of the personal information. A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required or any document which contains personal information about a person that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.

~~5.1~~ 7. Each governmental agency may ensure that any personal information contained in a document that has been recorded, filed or otherwise submitted to the governmental agency before January 1, 2007, which the governmental agency continues to hold is:

(a) Maintained in a confidential manner if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant; or

(b) Obliterated or otherwise removed from the document, by any method, including, without limitation, through the use of computer software, if the personal information is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.

↪ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

~~6.1~~ 8. A person may request that a governmental agency obliterate or otherwise remove from any document submitted by the person to the governmental agency before January 1, 2007, any personal information about the person contained in the document that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant or, if the personal information is so required to be included in the document, the person may request that the governmental agency maintain the personal information in a confidential manner. If any documents that have been recorded, filed or otherwise submitted to a governmental agency:

(a) Are maintained in an electronic format that allows the governmental agency to retrieve components of personal information through the use of computer software, a request pursuant to this subsection must identify the components of personal information to be retrieved. The provisions of this



paragraph do not require a governmental agency to purchase computer software to perform the service requested pursuant to this subsection.

(b) Are not maintained in an electronic format or not maintained in an electronic format in the manner described in paragraph (a), a request pursuant to this subsection must describe the document with sufficient specificity to enable the governmental agency to identify the document.

➔ The governmental agency shall not charge any fee to perform the service requested pursuant to this subsection.

~~17.1~~ **9.** As used in this section:

(a) “Governmental agency” means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) “Personal information” has the meaning ascribed to it in NRS 603A.040.

**Sec. 4.** (Deleted by amendment.)

**Sec. 5. 1.** This section and section 1.5 of this act become effective upon passage and approval.

**2.** Sections 1, 2 and 3 of this act ~~becomes~~ become effective on January 1, 2021.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 784.

AN ACT relating to education; providing for the identification of pupils for placement in more rigorous courses in certain core academic subjects; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law designates mathematics, English language arts, science and social studies as core academic subjects. (NRS 389.018) This bill requires the State Board of Education to adopt regulations that require each public school to establish and carry out a plan to identify pupils in grades 3 to 12, inclusive, for placement in more rigorous courses in those academic subjects. This bill requires a public school to place a pupil who is so identified in such a course unless the parent or guardian of the pupil submits to the principal of the school written notice of his or her objection to such placement. This bill also requires the board of trustees of a school district or the governing body of a charter school to establish a more rigorous course in mathematics, English language arts, science or social studies if: (1) there are sufficient numbers of pupils enrolled in the highest level of course in that subject area offered in the school district or charter school who are identified for placement in a more rigorous

course to warrant the establishment of such a course; and (2) the school district or charter school has sufficient financial resources to establish the more rigorous course.

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

**Section 1.** Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The State Board shall adopt regulations that require each public school to establish and carry out a plan to identify pupils in grades 3 to 12, inclusive, for placement in more rigorous courses in mathematics, English language arts, science and social studies. The regulations must require a school to use the criterion-referenced examinations administered pursuant to NRS 390.105 or norm-referenced, nationally recognized examinations and any other methods determined appropriate by the State Board to identify pupils for such placement.*

*2. If a pupil is identified for placement in a more rigorous course pursuant to subsection 1 and such a course is offered at the public school in which the pupil is enrolled:*

*(a) The principal of the public school in which the pupil is enrolled shall provide to the parent or guardian of the pupil written notice that the pupil has been identified for such placement which must include, without limitation:*

*(1) The subject area for which the pupil has been identified for such placement; and*

*(2) A statement that the pupil will be placed in a more rigorous course in that subject area unless the parent or guardian submits to the principal a written notice of his or her objection to such placement.*

*(b) The pupil must be placed in the more rigorous course unless the parent or guardian submits to the principal a written notice of his or her objection to such placement.*

*3. The board of trustees of a school district or the governing body of a charter school shall establish a more rigorous course in mathematics, English language arts, science or social studies if:*

*(a) There are sufficient numbers of pupils enrolled in the highest level of a course in that subject area offered in the school district or charter school who are identified for placement in a more rigorous course pursuant to subsection 1 to warrant the establishment of such a more rigorous course; and*

*(b) The school district or charter school has sufficient financial resources to establish the course.*

*4. The provisions of this section must not be construed to require a school district or charter school to establish a course for which sufficient financial resources are not available.*

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
2. On January 1, 2020, for all other purposes.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 328.

Bill read second time and ordered to third reading.

Senate Bill No. 342.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 821.

AN ACT relating to animals; revising provisions relating to an animal impounded by a county, city or other local government under certain circumstances; providing for a hearing to determine whether a person is the owner of an animal and whether the person is fit and able to provide adequate care and shelter for that animal; requiring and authorizing a court to issue certain orders after such a hearing; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that if a person is lawfully arrested and detained in a county for more than 7 days, and if the county impounds any animal owned or possessed by the person, the county must: (1) notify the person of the impoundment and request that the person provide to the county the name of any person who is authorized to care for the animal; (2) transfer, under certain circumstances, the animal to the person who is so authorized; and (3) if there is no such person, allow another person to care for the animal temporarily and, with the consent of the person who is arrested and detained, adopt the animal. Existing law also authorizes the county to bring an appropriate legal action to recover the reasonable cost of care and shelter of the animal under certain circumstances. **Finally, existing law defines the term "animal" for the purpose of an animal impounded by a county under such circumstances.** (NRS 171.1539) **Section 1** of this bill provides that if a person is lawfully arrested and detained in a county, city or other local government, other than for a violation of certain acts which constitute engaging in cruelty to animals, and the county impounds any animal owned or possessed by the person, the county may, within 10 days after the arrest: (1) allow another person who is able to provide adequate care and shelter to care for the animal temporarily; or (2) take possession of the animal. **Section 1** also requires the State to create and maintain a written notice which: (1) informs the person that an animal

owned or possessed by the person may have been impounded; (2) provides the current contact information of an animal shelter in each county, city or other local government responsible for impounding the animal; (3) is made available in certain languages; (4) is provided to each county or city jail or detention facility; and (5) must be posted in a conspicuous place in each county or city jail or detention facility. **Additionally, section 1 revises the definition of the term “animal” to include an animal which is maintained as a pet whether or not the animal is domesticated.**

Existing law requires a peace officer or animal control officer to take possession of an animal being treated cruelly. Existing law also requires an officer to provide certain notices to the owner of an animal of which the officer took possession. Existing law authorizes such an officer to impose a lien on the animal for the reasonable cost of care and shelter of the animal. (NRS 574.055) **Sections 3-9** of this bill establish provisions relating to an animal impounded incident to the lawful arrest of a person in violation of provisions relating to an act which constitutes cruelty to animals. **Section 7** of this bill requires ~~[a prosecutor to provide]~~ notice **be provided** to such a person of his or her right to request a hearing ~~[within 2 days after the arrest]~~ to determine whether the person is the owner of the animal and whether the person is able or fit to provide adequate care and shelter to the animal. **Section 7 requires a person to request such a hearing within 5 days after receipt of the notice.** **Section 7** requires the court hold such a hearing within 15 judicial days after receiving notice of the request. **Section 8** of this bill requires the court to order, under certain circumstances, another person to take possession of the animal. If the court determines that the person detained is not the owner of the animal or is not able or fit to provide adequate care and shelter of the animal, **section 8**: (1) requires the court to order the person not to own or possess the animal and to order the transfer of the animal; and (2) authorizes the court to order the impoundment of certain other animals or enjoin the person from owning or possessing other animals. **Section 9** of this bill authorizes: (1) the county, city or other local government or animal shelter to bring an appropriate legal action to recover the reasonable cost of the shelter and care of the animal; and (2) the court to order a later and separate hearing for such an action.

**Section 11 of this bill revises the notices provided to the owner of an animal of which an officer took possession to include notice of the right of the owner to request a hearing pursuant to section 7 to determine ownership of the animal and whether the owner is able or fit to provide adequate care and shelter to the animal.**

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

**Section 1.** NRS 171.1539 is hereby amended to read as follows:

171.1539 1. ~~1. If~~ ***Except as otherwise provided in sections 3 to 9, inclusive, of this act, if*** a person is lawfully arrested and detained ~~[in a county for more than 7 days,]~~ and ~~if~~ any animal owned or possessed by the person

is impounded by the county , *city or other local government in which the person is arrested at the time of the arrest or* after the arrest, ~~the county must notify the person of the impoundment of the animal and request that~~ the person *may* provide ~~to the county~~ the name of any person who is authorized to care for the animal. The county , *city or other local government or animal shelter* must transfer the animal to such a person if the county , *city or other local government* determines that the person is able to provide adequate care and shelter to the animal. If ~~there is~~ *within 10 days after the county, city or other local government impounds the animal* no *such* authorized person ~~who~~ is able to provide adequate care and shelter to the animal, the county ~~may allow~~ , *city or other local government or animal shelter*:

(a) *May allow* another person who is able to provide adequate care and shelter to care for the animal temporarily ~~and, with the consent of the person who is arrested and detained, allow the other person to adopt the animal.~~ ; or

(b) *May take possession of the animal.*

2. ~~It~~ *The State shall create and maintain a written notice which must:*

(a) *Inform the person or the public that an animal, owned or possessed by a person who has been arrested and detained, may have been impounded;*

(b) *Include the current contact information of each animal shelter in each county, city or other local government responsible for:*

(1) *Impounding an animal; and*

(2) *Providing care and shelter to an animal;*

(c) *Be available in English, Spanish, Tagalog and Standard Chinese;*

(d) *Be provided to each county or city jail or detention facility; and*

(e) *Be posted in a conspicuous place in each county or city jail or detention facility.*

3. *A person lawfully arrested and detained:*

(a) *May make a reasonable number of completed telephone calls from a county or city jail or detention facility for the purpose of locating an animal impounded pursuant to this section; and*

(b) *Shall not be charged for each completed call to an animal shelter listed in the written notice posted pursuant to subsection 2.*

4. *If* a person is convicted of the crime for which he or she was lawfully arrested, the county , *city or other local government or animal shelter* may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county , *city or other local government or animal shelter*, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.

~~It~~ 5. *The board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, may adopt an ordinance which provides for time ~~in addition to the time set forth in subsection 1~~ of not less than 5 days to a person lawfully arrested or detained for the purpose of providing the person a reasonable opportunity to locate another person to take possession of an animal. Such a reasonable opportunity is provided upon*

assistance from a county, city or other local government or an animal shelter.

6. *The city council or other governing body of each incorporated city, whether organized under general law or special charter, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, may adopt an ordinance which provides for time of not less than 5 days to a person lawfully arrested or detained for the purpose of providing the person a reasonable opportunity to locate another person to take possession of an animal. Such a reasonable opportunity is provided upon assistance from a county, city or other local government or an animal shelter.*

7. As used in this section ~~“animal”~~:

(a) *“Animal”* means any dog, cat, horse  ~~or~~ other domesticated animal  ~~or undomesticated animal which is maintained as a pet.~~ The term:

~~(a)~~ (1) Includes any chicken, pig, rabbit or other  ~~domesticated~~ animal which is maintained as a pet  ~~whether or not the animal is domesticated.~~

~~(b)~~ (2) Except as otherwise provided in  ~~paragraph (a),~~ *subparagraph 1*, does not include any cattle, sheep, goats, swine or poultry.

(b) *“Animal shelter”* has the meaning ascribed to it in NRS 574.240.

Sec. 2. Chapter 574 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 9, inclusive, of this act.

Sec. 3. *As used in sections 3 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Animal”* has the meaning ascribed to it in NRS 171.1539.

Sec. 5. *“Animal rescue organization”* has the meaning ascribed to it in NRS 574.205.

Sec. 6. *“Animal shelter”* has the meaning ascribed to it in NRS 574.240.

Sec. 7. 1. *If a person is lawfully arrested for a violation of NRS 574.070 or 574.100 and if an animal owned or possessed by the person is impounded by the county, city or other local government in connection with the arrest, ~~the prosecutor shall notify~~ the person must be notified in accordance with the provisions of subsection 2 of NRS 574.055 and be notified of his or her right to request a hearing within 5 days after receipt of the notice to determine whether the person is the owner of the animal and whether the person is able to provide adequate care and shelter to the animal. ~~Such notice~~ The person must ~~be provided within 2 judicial days after the arrest and state that the person has~~ request a hearing pursuant to this subsection with 5 days after receipt of the notice ~~to request a hearing~~ pursuant to this subsection.*

2. *If a person who is lawfully arrested and detained for a violation of NRS 574.070 or 574.100 does not request a hearing pursuant to subsection 1, or an owner of the animal has not been identified within 5 days of arrest, the county, city or other local government shall transfer ownership of the*

*animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.*

*3. If the court receives a timely request pursuant to subsection 1, the court shall hold a hearing within 15 judicial days after receipt of the request to determine whether the person is the owner of an animal and whether the person is able and fit to provide adequate care and shelter to the animal.*

*4. For the purpose of conducting a hearing pursuant to this section, the court may consider:*

*(a) Testimony of the peace officer or animal control officer who took possession of or impounded the animal or other witnesses concerning the conditions under which the animal was owned or kept;*

*(b) Testimony and evidence related to veterinary care provided to the animal, including, without limitation, the degree or type of care provided to the animal;*

*(c) Expert testimony as to community standards for the reasonable care of a similar animal;*

*(d) Testimony of witnesses concerning the history of treatment of the animal or any other animal owned or possessed by the person;*

*(e) Prior arrests or convictions related to subjecting an animal to an act of cruelty in violation of NRS 574.070 or 574.100; and*

*(f) Any other evidence which the court determines is relevant.*

*Sec. 8. 1. If the court determines by clear and convincing evidence that the person detained is the owner of the animal and the person is able and fit to provide adequate care and shelter for the animal, the court shall order the person or the designee of the person to take possession of the animal not later than 3 days after the issuance of the order.*

*2. If the court determines that there is not clear and convincing evidence that the person arrested is the owner of the animal or that the person detained is not able and fit to provide adequate care and shelter for the animal, the court shall order:*

*(a) The person not to own or possess the animal; and*

*(b) The county, city or other local government to transfer the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.*

*3. If the court makes a determination pursuant to subsection 2, the court may:*

*(a) Order the impoundment of any other animals owned or possessed by the person arrested; or*

*(b) Enjoin the person from owning or possessing any animal.*

*Sec. 9. If the court makes a determination pursuant to subsection 2 of section 8 of this act, the county, city or other local government or animal shelter may by appropriate action recover the reasonable cost of any care and shelter furnished to the animal. The court may order a later and separate hearing to make a determination about such costs.*

**Sec. 10.** NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~†~~, **and sections 3 to 9, inclusive, of this act:**

1. “Animal” does not include the human race, but includes every other living creature.
2. “First responder” means a person who has successfully completed the national standard course for first responders.
3. “Police animal” means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.
4. “Torture” or “cruelty” includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

**Sec. 11.** NRS 574.055 is hereby amended to read as follows:

574.055 ***Except as otherwise provided in sections 3 to 9, inclusive, of this act:***

1. Any peace officer or animal control officer shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, ~~and~~ the fact that there is a limited lien on the animal for the cost of shelter and care. ~~†~~ **and notice of the right of the owner to request a hearing pursuant to section 7 of this act within 5 days after receipt of the notice.** If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care



of the animal is in violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or the sheriff's designee, a licensed veterinarian and the district brand inspector or the district brand inspector's designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to the owner's custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the State Department of Agriculture shall sell the animal. The Department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

**Sec. 12.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 785.

AN ACT relating to higher education; revising provisions governing the awarding of Nevada Promise Scholarships; creating the Nevada Promise Scholarship Program to be administered by the Board of Regents of the University of Nevada; authorizing the Board of Regents to waive certain requirements for eligibility for certain students who are granted a leave of absence from the Program; revising the eligibility criteria for a student to receive a Nevada Promise Scholarship; revising provisions governing the disbursement of money from the Nevada Promise Scholarship Account; eliminating provisions requiring a community college to maintain certain records relating to Nevada Promise Scholarships; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a community college is authorized, but not required, to award Nevada Promise Scholarships to students who meet certain requirements for eligibility. (NRS 396.965, 396.9665) This bill transfers authority for the awarding of Nevada Promise Scholarships from each community college to the Board of Regents of the University of Nevada. **Section 9** of this bill creates the Nevada Promise Scholarship Program for the purpose of awarding Nevada Promise Scholarships and requires the Board of Regents to administer the Program.

Under existing law, Nevada Promise Scholarships must be used to pay the difference between the amount of the registration fee and other mandatory fees a community college charges to a student and the total amount of any other gift aid the student receives for the school year. (NRS 396.968) **Section 4** of this bill defines “registration fee and other mandatory fees.” **Section 15** of this bill repeals the term “school year” as it relates to the Nevada Promise Scholarship Program and **sections 9-12** of this bill replace it with the term “academic year.” **Section 2** of this bill defines the term “academic year.”

Under existing law, if a community college chooses to award Nevada Promise Scholarships, it is required to perform certain specified duties, including holding training meetings for scholarship applicants and establishing a mentoring program, or entering into an agreement with a nonprofit organization or governmental entity to perform those duties. (NRS 396.965, 396.9655) **Sections 9, 10 and 15** of this bill remove provisions specifying these duties and instead require the Board of Regents to adopt regulations governing the Program.

Existing law sets forth the requirements a student must meet to be eligible to receive or renew a Nevada Promise Scholarship. (NRS 396.9665, 396.967) **Section 15** repeals the provision requiring that a student renew a Nevada Promise Scholarship each year. **Section 10** instead provides that a student remains eligible for a Nevada Promise Scholarship so long as he or she meets certain prescribed requirements. **Section 10** also decreases the number of hours of community service that a student must perform, from 20 hours before receiving a scholarship and 20 hours each year the student receives a scholarship to 8 hours before receiving a scholarship and 8 hours each semester the student receives a scholarship. **Section 10** similarly decreases the number of training meetings a student must attend from two meetings to one meeting. **Sections 9 and 10** remove deadlines for a student to complete certain requirements for eligibility for a Nevada Promise Scholarship and instead require the Board of Regents to adopt regulations prescribing such deadlines.

Existing law requires a student to be less than 20 years of age and have obtained a high school diploma or a general equivalency diploma or equivalent document to be eligible to receive a Nevada Promise Scholarship. (NRS 396.9665) **Section 10** requires that a student have obtained a high school diploma or successfully completed the high school equivalency assessment selected by the State Board of Education before 20 years of age to be eligible to receive a Nevada Promise Scholarship.

**Existing law requires a student to complete the Free Application for Federal Student Aid to be eligible to receive a Nevada Promise Scholarship. (NRS 396.9665) Section 10 provides that a student who is prohibited by law from completing the Free Application for Federal Student Aid is authorized to complete an alternative determination for financial aid as the Board of Regents may prescribe.**

**Section 5** of this bill authorizes the Board of Regents to grant a student a leave of absence from the Program under certain circumstances and waive

certain requirements for eligibility in the Program for a student who has been granted a leave of absence.

Existing law creates the Nevada Promise Scholarship Account and requires each participating community college to award Nevada Promise Scholarships in accordance with certain procedures for determining the amount of a scholarship for each eligible student and requesting a disbursement from the Account. If there is insufficient money available to award a full scholarship to all eligible students, existing law requires the State Treasurer to provide notice to certain entities and disburse money from the Account in a certain manner. (NRS 396.9645, 396.968) **Section 11** of this bill requires the Board of Regents to: (1) calculate the maximum amount of the Scholarship each eligible student is eligible to receive; (2) determine the actual amount, if any, the eligible student will receive; and (3) award a Nevada Promise Scholarship to the student by disbursing money directly to the community college in which the student is enrolled. **Section 11** also requires the State Treasurer to disburse money from the Account to the Board of Regents upon request and, if there is insufficient money in the Account, to provide notice to the Board of Regents.

**Section 11 further requires the Board of Regents to adopt regulations for the disbursement of money if there is insufficient money in the Account to award a full scholarship to all eligible students. Section 11 requires such regulations to prohibit the Board of Regents from awarding any money to a student who is prohibited by law from completing the Free Application for Federal Student Aid unless all students who have completed the Free Application for Federal Student Aid have been awarded a full scholarship.**

**Section 12** of this bill revises certain requirements relating to an annual report that the Board of Regents must prepare and eliminates the requirement that a community college maintain certain records relating to Nevada Promise Scholarships.

**Section 15** repeals certain provisions relating to Nevada Promise Scholarships to conform to the changes made in this bill.

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

**Section 1.** Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

**Sec. 2.** *“Academic year” means 2 consecutive semesters, beginning with a fall semester, and 1 summer academic term at a community college.*

**Sec. 3.** *“Program” means the Nevada Promise Scholarship Program created by NRS 396.965.*

**Sec. 4.** *“Registration fee and other mandatory fees” means a registration fee assessed per credit and mandatory fees assessed per credit that are approved by the Board of Regents and charged to all students by a community college. The term does not include special course fees or fees*

*charged for specific programs of study, books or supplies even if such fees are considered necessary for enrollment.*

**Sec. 5. 1.** *The Board of Regents may grant a leave of absence from the Program to a student upon request. A student may request a leave of absence for:*

*(a) An illness or serious medical problem of the student or a member of the student's immediate family;*

*(b) Extreme financial hardship for the student or a member of the student's immediate family;*

*(c) Engaging in any activity required or encouraged for members of the student's religious faith;*

*(d) Mobilization of the student's unit of the Armed Forces of the United States or National Guard; or*

*(e) Any other extraordinary circumstances beyond the control of the student that would create a substantial hardship for the student, as determined by the Board of Regents.*

**2.** *If the Board of Regents grants a leave of absence to a student, the Board of Regents shall:*

*(a) Make a determination in accordance with regulations adopted by the Board of Regents as to which requirements for eligibility in the Program set forth in NRS 396.9665 are appropriate to waive for the student; and*

*(b) Waive requirements for eligibility as determined pursuant to paragraph (a) for the student for the length of the leave of absence.*

**3.** *The Board of Regents shall adopt regulations establishing:*

*(a) Procedures for a student to request a leave of absence pursuant to subsection 1; and*

*(b) Criteria for determining appropriate requirements for eligibility to waive for a student who has been granted a leave of absence pursuant to subsection 2.*

**Sec. 6.** NRS 396.961 is hereby amended to read as follows:

396.961 As used in NRS 396.961 to 396.9685, inclusive, **and sections 2 to 5, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 396.9615 to 396.964, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

**Sec. 7.** NRS 396.9625 is hereby amended to read as follows:

396.9625 "Nevada Promise Scholarship" means a scholarship awarded by ~~the participating community college~~ **the Board of Regents** pursuant to NRS 396.968.

**Sec. 8.** NRS 396.9645 is hereby amended to read as follows:

396.9645 1. The Nevada Promise Scholarship Account is hereby created in the State General Fund. The Account must be administered by the State Treasurer.

2. The interest and income earned on:

(a) The money in the Account, after deducting any applicable charges; and

(b) Unexpended appropriations made to the Account from the State General Fund,

↪ must be credited to the Account.

3. Any money remaining in the Account at the end of a fiscal year, including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

4. The State Treasurer may accept gifts and grants of money from any source for deposit in the Account.

5. The money in the Account may only be used to distribute money to ~~participating community colleges~~ **the Board of Regents** for the purpose of awarding Nevada Promise Scholarships to students who are eligible to receive ~~for renew~~ such scholarships under the provisions of NRS 396.9665 . ~~and 396.967.~~

**Sec. 9.** NRS 396.965 is hereby amended to read as follows:

396.965 1. ~~On or before October 1 of each year, each community college shall:~~

~~—(a) Determine whether it will participate in the~~ **The** Nevada Promise Scholarship ~~program established by NRS 396.961 to 396.9685, inclusive, for the immediately following school year, and~~

~~—(b) Post on a publicly accessible Internet website maintained by the community college notice of the determination described in paragraph (a).~~

~~2. Each community college that elects to participate in the~~ **Program is hereby created for the purpose of awarding** Nevada Promise ~~Scholarship program established by NRS 396.961 to 396.9685, inclusive, for the immediately following school year shall:~~

~~—(a) Conduct the activities required by NRS 396.9655 or enter into an agreement with one or more nonprofit organizations or governmental entities to conduct those activities.~~

~~—(b) Allow an applicant or scholarship recipient~~ **Scholarships to eligible students to pay for the difference between the amount of the registration fee and other mandatory fees charged to a student by a community college for the academic year and the total amount of any other gift aid received by the student for the academic year.**

**2. The Board of Regents shall administer the Program.**

**3. In administering the Program, the Board of Regents shall adopt regulations governing:**

**(a) The procedures and standards for determining the eligibility of a student for a Nevada Promise Scholarship pursuant to NRS 396.9665.**

**(b) An application process administered through the community colleges which allows a student to participate in the Program.**

**(c) Deadlines for a student to satisfy the requirements for eligibility in the Program.**

*(d) A training program administered through the community colleges which allows a student to satisfy the requirements of paragraph (f) of subsection 1 of NRS 396.9665.*

*(e) A mentoring program administered through the community colleges which allows a student to satisfy the requirements of paragraph (g) of subsection 1 of NRS 396.9665.*

*(f) The criteria for completing the community service requirements of paragraph (h) of subsection 1 of NRS 396.9665.*

*(g) Procedures which allow a student to appeal any adverse decision concerning his or her eligibility to receive ~~for renew~~ a Nevada Promise Scholarship. ~~Under the provisions of NRS 396.9665 or 396.967 or request a waiver, for good cause, of the requirements of paragraph (e) of subsection 2 of NRS 396.967 concerning continuous enrollment. If the participating community college has established a process by which a student may appeal other decisions, the participating community college must use the same process for appealing an adverse decision described in this subsection.~~*

~~3. A participating~~

*(h) Procedures for a community college ~~may~~ to accept gifts, grants and donations from any source for the purposes of ~~administering~~ carrying out its duties under the ~~Nevada Promise Scholarship program established by NRS 396.961 to 396.9685, inclusive.~~ Program as prescribed by the Board of Regents.*

*(i) Procedures and standards for determining the eligibility of a student for financial aid if the student is prohibited by law from completing the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.*

*4. The Board of Regents may adopt regulations authorizing a community college to enter into an agreement with one or more nonprofit organizations or governmental entities to conduct any activities required by the Board of Regents for a training program which allows a student to satisfy the requirements of paragraph (f) of subsection 1 of NRS 396.9665 and a mentoring program which allows a student to satisfy the requirements of paragraph (g) of subsection 1 of NRS 396.9665.*

*5. The Board of Regents may adopt any other regulations necessary to carry out the Program.*

Sec. 10. NRS 396.9665 is hereby amended to read as follows:

396.9665 ~~{A student is}~~

*1. To be eligible to receive a Nevada Promise Scholarship ~~for the first school year in which the student is enrolled at a participating community college if the~~, a student ~~{~~*

~~1. Is} must:~~

*(a) Be a bona fide resident of this State, as construed in NRS 396.540. ~~{ is less than 20 years of age and has}~~*

*(b) Have not previously been awarded an associate's degree or bachelor's degree.*

~~{2. Has}~~

(c) *Have* obtained ~~†~~

~~—(a) A} a high school diploma awarded by a public or private high school located in this State or public high school that is located in a county that borders this State and accepts pupils who are residents of this State †} or~~

~~†(b) A general} *have successfully completed the high school* equivalency {diploma or equivalent document.~~

~~—3. Is not in default on any federal student loan and does not owe a refund to any federal program to provide aid to students.~~

~~—4. Before November 1 immediately preceding the school year for which the student wishes to receive a} *assessment selected by the State Board pursuant to NRS 390.055 before 20 years of age.*~~

(d) *Complete the application for the Nevada Promise Scholarship* ~~†~~ submits an application in the form prescribed by the participating community college.

~~—5. On or before April 1 immediately preceding the school year for which the student wishes to receive a Nevada Promise Scholarship, completes} *Program in accordance with the regulations prescribed by the Board of Regents.*~~

(e) *Complete* the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 ~~†~~

~~—6. Receives an Expected Family Contribution from the United States Department of Education.~~

~~—7. Attends at least} *or, if the student is prohibited by law from completing the Free Application for Federal Student Aid, an alternative determination for financial aid prescribed by the Board of Regents for each academic year of participation in the Program on or before the deadline prescribed by the Board of Regents.*~~

(f) *Before enrolling in a community college, participate in* one training meeting ~~†held by a participating community college or local partnering organization pursuant to subsection 2 of NRS 396.9655 and at least one such meeting held pursuant to subsection 3 of that section, or arranges to receive the training provided in those meetings at an alternate time pursuant to subsection 4 of that section.~~

~~—8. Before May 1 immediately preceding the school year for which the student wishes to receive a Nevada Promise Scholarship:~~

~~—(a) Has} *related to financial aid, the Free Application for Federal Student Aid and college orientation, as prescribed by the Board of Regents by regulation.*~~

(g) *Have* met at least once with ~~†the} a~~ mentor assigned to the student *through the mentoring program established by the Board of Regents* pursuant to NRS ~~†396.9655.~~

~~—(b) Completes} *396.965 before the first semester of enrollment at a community college and at least twice for each academic year while participating in the Program.*~~

**(h) Complete** at least ~~20~~ 8 hours of community service ~~that meets the requirements of NRS 396.9675 and submits to the participating~~ *during the last year of high school and before the first semester of enrollment at a community college* ~~verification of the completion of that~~ *and at least 8 hours of community service* ~~. The verification must include:~~

~~— (1) A description of the community~~ *each semester thereafter, not including summer academic terms, while participating in the Program. Community service performed* ~~;~~

~~— (2) The dates on which the service was performed and the number of hours of~~ *to satisfy the requirements of this paragraph must not include religious proselytizing or service* ~~performed on each date;~~

~~— (3) The name of the organization for which the service was performed; and~~

~~— (4) The name of a person employed by the organization whom the participating community college may contact to verify the information contained in the verification.~~

~~— (e) Submits~~ *for which the student receives any type of compensation or which directly benefits a member of the family of the student.*

**(i) Submit** all information deemed necessary by the ~~participating community college~~ *Board of Regents* to determine the ~~applicant's~~ *student's* eligibility for gift aid.

~~19. Is~~

**(j) Except as otherwise provided in subsection 2, be** enrolled in ~~for plans to enroll in~~ at least 12 semester credit hours in ~~an associate's degree~~ a program ~~a bachelor's~~ *of study leading to a recognized degree* ~~program~~ or ~~a~~ certificate ~~of achievement program~~ at a ~~participating~~ community college for ~~each~~ *the fall* semester of the ~~school~~ *academic* year immediately following the school year in which the student was awarded a high school diploma or ~~a general~~ *have successfully completed the high school equivalency* ~~diploma or equivalent document~~ *assessment selected by the State Board pursuant to NRS 390.055.*

**(k) Except as otherwise provided in subsection 2 and this paragraph, be** enrolled in at least 12 semester credit hours in a program of study leading to a recognized degree or certificate at a community college for each fall semester and spring semester beginning with the first semester for which the student received a Nevada Promise Scholarship, not including summer academic terms. A student who is on schedule to graduate at:

**(1) The end of a semester may enroll in the number of semester credit hours required to graduate.**

**(2) The end of a fall semester is not required to enroll in credit hours for the spring semester.**

**(l) Meet satisfactory academic progress, as defined by federal requirements established pursuant to Title IV of the Higher Education Act of 1965, 20 U.S.C. §§ 1001 et seq., and determined by the community college in which the student is enrolled.**



2. *The Board of Regents shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:*

(a) *The limitation on eligibility for a Nevada Promise Scholarship set forth in paragraph (b) of subsection 3; and*

(b) *The minimum number of credits prescribed in paragraphs (j) and (k) of subsection 1.*

3. *A student who meets the requirements of subsection 1 is eligible for a Nevada Promise Scholarship from the Program until the occurrence of the first of the following events:*

(a) *The student is awarded an associate's degree or bachelor's degree; or*

(b) *Except as otherwise provided in subsection 2, the student receives a Nevada Promise Scholarship from the Program for 2 academic years, not including the initial academic year.*

Sec. 11. NRS 396.968 is hereby amended to read as follows:

396.968 1. ~~Each participating community college~~ **The Board of Regents** shall award Nevada Promise Scholarships in accordance with this section to students who are enrolled at ~~the participating~~ a community college and are eligible to receive ~~for renew~~ such scholarships under the provisions of NRS 396.9665 . ~~and 396.967.~~

2. ~~On or before July 1 of each year, a participating community college~~ **For each eligible student, the Board of Regents** shall:

(a) ~~Review all timely applications received pursuant to NRS 396.9665 and 396.967 to determine the eligibility of each applicant for~~ **Calculate the maximum amount of** a Nevada Promise Scholarship ~~and for gift aid,~~ **which the student is eligible to receive based on criteria established by regulation pursuant to this section.**

(b) ~~Review information submitted by each eligible applicant to determine the amount of~~ **Determine the actual amount of the Nevada Promise Scholarship, if any, which will be awarded to the student, which must not exceed the maximum amount calculated pursuant to paragraph (a), but which may be in a lesser amount if the Board of Regents receives notice from the State Treasurer pursuant to subsection 3 that the money available in the Nevada Promise Scholarship** ~~the student would receive under the provisions of subsection 6 and notify each applicant whether the applicant is~~ **Account for any semester is insufficient to award to all** eligible ~~to receive~~ **students the maximum amount of** a Nevada Promise Scholarship ~~for the immediately following school year, and~~ **which each student is eligible to receive.**

(c) ~~After reviewing applications pursuant to paragraph (a), submit to the State Treasurer the number of students whose applications have been approved and the amount of money that will be required to fund a scholarship for each eligible student pursuant to subsection 6 if no student receives additional gift~~

~~aid. If the student is to receive a Nevada Promise Scholarship, award the student a Nevada Promise Scholarship in the amount determined pursuant to paragraph (b). The Board of Regents shall disburse the amount of the Nevada Promise Scholarship awarded to the student, on behalf of the student, directly to the community college in which the student is enrolled.~~

3. ~~On the date prescribed by regulation of the State Treasurer, a participating community college~~ **The Board of Regents** shall submit a request for a disbursement from the Nevada Promise Scholarship Account created by NRS 396.9645 ~~in~~ **for the maximum** amount ~~prescribed by subsection 6~~ **of money that will be required to fund a scholarship** for each eligible student.

~~4. A participating community college shall use the money disbursed pursuant to subsection 5 to pay the difference between the amount of the registration fee and other mandatory fees charged to the student by the participating community college for the school year, excluding any amount of those fees that is waived by the participating community college, and the total amount of any other gift aid received by the student for the school year. The community college shall not refund to a student any money disbursed to the participating community college pursuant to subsection 5.~~

~~5. Within the limits of money available in the Nevada Promise Scholarship Account, the State Treasurer shall disburse to a participating community college the amount requested pursuant to subsection 3. to the Board of Regents for disbursement to each community college.~~ If there is insufficient money in the Account to disburse that amount to each ~~participating~~ community college ~~to~~:

~~(a) The~~ **the** State Treasurer shall ~~determine whether there is sufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship and disburse the available money in the Account to each participating community college in the following manner:~~

~~(1) If there is insufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship, the State Treasurer shall not disburse any amount requested for first time recipients of a Nevada Promise Scholarship and shall disburse money to each participating community college to fund a scholarship for each student who applied to renew a Nevada Promise Scholarship, in the order in which applications were received by the participating community college, until the money in the Account is exhausted; and~~

~~(2) If there is sufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship, the State Treasurer shall first disburse the money requested by each participating community college for all students who applied to renew a Nevada Promise Scholarship and then disburse money to each participating community college to fund a scholarship for each student who applied for the first time to receive a Nevada Promise Scholarship, in the order in which~~

applications were received by the participating community college, until the money in the Account is exhausted.

~~(b) The State Treasurer shall~~ provide notice that insufficient money remains in the Nevada Promise Scholarship Account to ~~for~~:

~~(1) The Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education, the Legislative Commission and next regular session of the Legislature; and~~

~~(2) The board of trustees of each school district and the governing body of each charter school in this State. Upon receiving such notice, the board of trustees or governing body, as applicable, shall notify each pupil who is enrolled in a school in the district or the charter school and is on schedule to receive a standard high school diploma at the end of the current school year.~~

~~(c) A participating community college shall~~ *the Board of Regents. The State Treasurer shall include in the notice the amount of money available for the* award of Nevada Promise Scholarships ~~in accordance with the provisions of paragraph (a) in a manner that gives priority first to students applying for renewal of a Nevada Promise Scholarship and then to applications received by the participating community college pursuant to NRS 396.9665, in the order in which they were received.~~

~~6. Within the limits of money available in the~~ *for the academic year and request that a new request be submitted.*

**4. The Board of Regents shall adopt regulations prescribing:**

*(a) The criteria for determining the maximum amount of a Nevada Promise Scholarship* ~~{Account, the amount of money awarded to a scholarship recipient pursuant to this section must be}~~ *for an eligible student which is equal to the difference between the amount of the registration fee and other mandatory fees charged to the student by the* ~~{participating}~~ community college *in which the student is enrolled* for the ~~{school}~~ academic year, excluding any amount of those fees that is waived by the ~~{participating}~~ community college ~~{}~~ *in which the student is enrolled*, and the total amount of any other gift aid received by the student for the ~~{school}~~ academic year.

*(b) The procedures for submitting a request for disbursement from the Nevada Promise Scholarship Account.*

*(c) The procedures and standards for determining the actual amount of the Nevada Promise Scholarship which will be awarded to each student upon receiving notice that there is insufficient money to award all eligible students the maximum amount of the scholarship which each student is eligible to receive. Such procedures and standards* ~~{may}~~:

*(1) Must prohibit the Board of Regents from awarding any money to a student who is prohibited by law from completing the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 unless all students who have completed the Free Application for Federal Student Aid have been awarded the maximum amount calculated pursuant to paragraph (a) of subsection 2; and*

(2) May include, without limitation, administration of the program on a first-come, first-served basis for all students who have completed the Free Application for Federal Student Aid and are otherwise eligible to participate in the Program.

*(d) Procedures to ensure that all money from a Nevada Promise Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Nevada Promise Scholarship Account and not the student.*

**Sec. 12.** NRS 396.9685 is hereby amended to read as follows:

396.9685 1. On or before August 1 of each year, the Board of Regents shall:

(a) Review all Nevada Promise Scholarships awarded for the immediately preceding ~~school~~ *academic* year;

(b) Compile a report for the immediately preceding ~~school~~ *academic* year, which must include the number of *students who applied for a scholarship, the number of students who received a* scholarship, ~~recipients,~~ the total cost associated with the award of Nevada Promise Scholarships, the total number of hours of community service performed pursuant to NRS 396.9665, ~~and 396.967,~~ the ~~overall~~ graduation rate of *students who received a* scholarship ~~recipients, the graduation rate of scholarship recipients enrolled at each participating community college,~~ *and* the ~~overall~~ scholarship retention rate; ~~and the scholarship retention rate for students at each participating community college;~~ and

(c) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In even-numbered years, the next regular session of the Legislature; and

(2) In odd-numbered years, the Legislative Committee on Education.

2. ~~{A participating community college shall maintain a record for each scholarship recipient for at least 3 years after the end of the final school year for which he or she receives a scholarship. Such a record must include:~~

~~—(a) The name of the scholarship recipient;~~

~~—(b) The total amount of money awarded to the scholarship recipient and the amount of money awarded to the scholarship recipient each school year;~~

~~—(c) The courses in which the scholarship recipient enrolled and the courses completed by the scholarship recipient;~~

~~—(d) The grades received by the scholarship recipient;~~

~~—(e) Whether the scholarship recipient is currently enrolled in the participating community college and, if not, whether he or she earned an associate's degree, a bachelor's degree or a certificate of achievement; and~~

~~—(f) The records of community service submitted by the scholarship recipient pursuant to NRS 396.9665 and 396.967.~~

~~3. Except as otherwise provided in this section, the Board of Regents and the State Treasurer may at any time audit the practices used by a participating community college or local partnering organization to carry out the provisions~~

of NRS 396.961 to 396.9685, inclusive. The Board of Regents and State Treasurer shall not conduct an audit less than 6 months after the most recently conducted audit.

~~4. A participating community college shall provide the Board of Regents and the State Treasurer with access to the records maintained pursuant to subsection 2 for the purposes of an annual report compiled pursuant to subsection 1 or an audit conducted pursuant to subsection 3. Those records are otherwise confidential and are not public records.~~

~~5. As used in this section, “scholarship retention rate” means the percentage of *students who received a* scholarship [recipients] for the [school] *academic* year immediately preceding the [school] *academic* year to which a report compiled pursuant to subsection 1 pertains who did not graduate by the end of that [school] *academic* year and who also received a Nevada Promise Scholarship for the [school] *academic* year to which the report pertains.~~

**Sec. 13.** The amendatory provisions of paragraph (h) of subsection 1 of NRS 396.9665, as amended by section 10 of this act, apply to any student who obtained a high school diploma or successfully completed the high school equivalency assessment selected by the State Board of Education pursuant to NRS 390.055 on or after June 1, 2018.

**Sec. 14.** The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

**Sec. 15.** NRS 396.962, 396.963, 396.9635, 396.964, 396.9655, 396.966, 396.967 and 396.9675 are hereby repealed.

**Sec. 16.** This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2019, for all other purposes.

#### LEADLINES OF REPEALED SECTIONS

**396.962 “Local partnering organization” defined.**

**396.963 “Participating community college” defined.**

**396.9635 “Scholarship recipient” defined.**

**396.964 “School year” defined.**

**396.9655 Participating community college or local partnering organization to hold certain training meetings; make-up meetings; establishment of mentoring program for scholarship applicants and recipients; maintenance and posting of list of community service opportunities.**

**396.966 Eligibility to serve as mentor in mentoring program.**

**396.967 Renewal of Nevada Promise Scholarship.**

**396.9675 Ineligibility for Scholarship for submitting false or misleading information; deadlines; prohibition against certain community service to satisfy requirements.**

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 364.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 731.

SENATORS PARKS, SPEARMAN; AND WOODHOUSE

**JOINT SPONSOR: ASSEMBLYMAN CARILLO**

SUMMARY—Prohibits discrimination against and provides protection for ~~persons who reside in or receive services from~~ **patients or residents of** certain facilities. (BDR 40-757)

AN ACT relating to the protection of vulnerable persons; prohibiting a medical facility, facility for the dependent and certain other facilities from engaging in certain discriminatory actions; **requiring employees and agents of such facilities to receive certain training relating to cultural competency**; requiring such facilities to take certain measures to protect the privacy of persons receiving care from the facilities; ~~requiring administrators and employees of such facilities to receive certain training;~~ **and adapt electronic records to reflect certain information concerning patients or residents**; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the licensing and regulation of medical facilities, facilities for the dependent and certain other facilities by the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 449.029-449.240) **Section 2** of this bill prohibits such a facility from discriminating against a person based on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the person or a person with whom the person associates. **Section 6 of this bill requires the State Board of Health to adopt regulations that prescribe the specific types of prohibited discrimination. Section 2** requires such a facility to post prominently in the facility and include on any marketing website: **(1) a statement that a person who is discriminated against on prohibited grounds may file a complaint with the Division; and (2) the contact information for the Division.**

**Section 2.5 of this bill requires the Board, by regulation, to require a medical facility, facility for the dependent and certain other facilities required by the Board to be licensed to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility. Section 2.5 provides that such cultural competency training is required so that**

**such an agent or employee may better understand patients or residents who have different cultural backgrounds, including patients who are: (1) from various gender, racial and ethnic backgrounds; (2) from various religious backgrounds; (3) lesbian, gay, bisexual, transgender and questioning persons; (4) children and senior citizens; (5) persons with a mental or physical disability; and (6) part of any other population, as determined by the Board. Section 2.5 requires such training to be provided through a course or program that is approved by the Department of Health and Human Services.**

**Section 3 of this bill requires ~~such~~ a **medical facility , facility for the dependent and certain other facilities required by the Board to be licensed** to ~~ensure that all records maintained by the facility concerning a person refer to the person using the gender identity, name and pronouns preferred by the person and~~ take certain measures to protect the privacy of persons receiving care from the facility. ~~Section 6 of this bill requires administrators and employees of such facilities to receive training concerning cultural competency and sensitivity in issues relating to the lesbian, gay, bisexual and transgender community.~~ Section 3.5 of this bill requires the Board to adopt regulations that require such a facility to develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression. Section 3.5 also requires the facility to adapt electronic records to reflect the gender identities or expressions of gender diverse patients or residents and section 11 of this bill requires that to occur by July 1, 2021, unless an extension is approved by the Division of Public and Behavioral Health. Sections 4-10 of this bill make conforming changes.**

~~[ Existing law creates the Office of the State Long Term Care Ombudsman within the Aging and Disability Services Division of the Department of Health and Human Services to advocate for the protection of residents of facilities for long term care and authorizes the Ombudsman to investigate complaints concerning such facilities. (NRS 427A.125, 427A.135) Section 2 requires a medical facility, a facility for the dependent and certain other facilities required to be licensed by the State Board of Health to post prominently in the facility and include on any marketing website and in any marketing materials: (1) a statement that a person who is discriminated against on prohibited grounds may file a complaint with the Ombudsman; and (2) the contact information for the Ombudsman.]~~

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

**Section 1.** Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~and 3~~ **to 3.5, inclusive**, of this act.

**Sec. 2. 1. A medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed and any employee or independent contractor of such**

a facility shall not discriminate in the admission of, or the provision of services to, a ~~person~~ patient or resident based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the ~~person~~ patient or resident or any person with whom the ~~person~~ patient or resident associates.

2. ~~Prohibited discrimination pursuant to subsection 1 includes, without limitation:~~

~~(a) Denying admission to the facility, transferring or refusing to transfer a person within the facility or to another facility or discharging or evicting a person from the facility.~~

~~(b) Denying a request by persons to share a room.~~

~~(c) Preventing a person from wearing or being dressed in clothing, accessories or cosmetics that are authorized for any other person.~~

~~(d) Restricting a person from associating with other persons, including, without limitation, engaging in consensual sexual relations.~~

~~(e) Denying or restricting care that is appropriate for the biology of a person or providing care in a manner that unduly demeans or causes avoidable discomfort to a person.~~

~~(f) Harassing or verbally or physically abusing a person.~~

~~(g) If rooms are assigned by gender, assigning, reassigning or refusing to assign a room to a transgender person in accordance with the gender identity of the person, except at the request of the person.~~

~~(h) Prohibiting a person from using, requiring a person to show documentation before using or otherwise harassing a person for using or seeking to use a restroom available to other persons of the same gender identity.~~

~~(i) Willfully failing to use the preferred name or pronouns of a person after the person has informed the facility of his or her preferred name or pronouns.~~

~~(j) Willfully refusing to comply with the decisions of the spouse or domestic partner of a person who is the authorized representative of the person if the decisions are within the scope of the authorized representation.~~

~~3.7~~ A medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed shall ~~post~~ :

(a) Develop and carry out policies to prevent the specific types of prohibited discrimination described in the regulations adopted by the Board pursuant to NRS 449.0302 and meet any other requirements prescribed by regulations of the Board; and

(b) Post prominently in the facility and include on any Internet website ~~and in any materials~~ used to market the facility the following statement:



*[Name of facility] does not discriminate and does not permit discrimination, including, without limitation, bullying, abuse or harassment, on the basis of actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or HIV status, or based on association with another person on account of that person's actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or HIV status.*

~~4.3.~~ 3. *In addition to the statement prescribed by subsection ~~3.2.~~ 2., a facility for skilled nursing, facility for intermediate care or residential facility for groups shall post prominently in the facility and include on any Internet website ~~and in any materials~~ used to market the facility:*

*(a) Notice that a ~~person~~ patient or resident who has experienced prohibited discrimination may file a complaint with the ~~Office of the State Long-Term Care Ombudsman created by NRS 427A.125~~ Division; and*

*(b) The contact information for the ~~Office of the State Long-Term Care Ombudsman~~ Division.*

~~5.4.~~ 4. *The provisions of this section shall not be construed to:*

*(a) Require a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or an employee or independent contractor thereof to take or refrain from taking any action in violation of reasonable medical standards; or*

*(b) Prohibit a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed from adopting a policy that is applied uniformly and in a nondiscriminatory manner, including, without limitation, such a policy that bans or restricts sexual relations.*

Sec. 2.5. 1. *To enable an agent or employee of a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed who provides care to a patient or resident of the facility to more effectively treat patients or care for residents, as applicable, the Board shall, by regulation, require such a facility to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who are:*

*(a) From various gender, racial and ethnic backgrounds;*

*(b) From various religious backgrounds;*

*(c) Lesbian, gay, bisexual, transgender and questioning persons;*

*(d) Children and senior citizens;*

*(e) Persons with a mental or physical disability; and*

(f) Part of any other population that such an agent or employee may need to better understand, as determined by the Board.

2. The training relating specifically to cultural competency conducted by a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed pursuant to subsection 1 must be provided through a course or program that is approved by the Department of Health and Human Services.

Sec. 3. A medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed shall:

~~1. Ensure that all records maintained by the facility concerning a person refer to the person using the gender identity, name and pronouns preferred by the person;~~

~~2. Maintain the confidentiality of personally identifiable information concerning the sexual orientation of a ~~person~~ patient or resident, whether the ~~person~~ patient or resident is transgender or has undergone a gender transition and the human immunodeficiency virus status of the ~~person~~ patient or resident and take reasonable actions to prevent the unauthorized disclosure of such information;~~

~~3. 2. Prohibit employees or independent contractors of the facility who are not performing a physical examination or directly providing care to a ~~person~~ patient or resident from being present during any portion of the physical examination or care, as applicable, during which the ~~person~~ patient or resident is fully or partially unclothed without the express permission of the ~~person~~ patient or resident or the authorized representative of the ~~person~~ patient or resident;~~

~~4. patient or resident;~~

~~3. Use visual barriers, including, without limitation, doors, curtains and screens, to provide privacy for ~~persons~~ patients or residents who are fully or partially unclothed; and~~

~~5. 4. Allow a ~~person~~ patient or resident to refuse to be examined, observed or treated by an employee or independent contractor of the facility for a purpose that is primarily educational rather than therapeutic.~~

Sec. 3.5. The Board shall adopt regulations that require a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed to:

1. Develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression;

2. Adapt electronic records to reflect the gender identities or expressions of patients or residents with diverse gender identities or expressions, including, without limitation:

(a) If the facility is a medical facility, adapting health records to meet the medical needs of patients or residents with diverse sexual orientations and

gender identities or expressions, including, without limitation, integrating information concerning sexual orientation and gender identity or expression into electronic systems for maintaining health records; and

(b) If the facility is a facility for the dependent or other residential facility, adapting electronic records to include:

(1) The preferred name and pronoun and gender identity or expression of a resident; and

(2) Any other information prescribed by regulation of the Board.

Sec. 4. NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act**, unless the context otherwise requires, “medical facility” has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.

Sec. 5. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility, facility for the dependent or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed that is operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.029 to 449.2428, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) ~~Regulations that prescribe required training for administrators and employees of medical facilities, facilities for the dependent and facilities~~

~~which are otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed concerning cultural competency and sensitivity in issues relating to lesbian, gay, bisexual and transgender persons.~~ the specific types of discrimination prohibited by section 2 of this act.

(f) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.029 to 449.2428, inclusive ~~1~~, and sections 2 ~~and 3~~ to 3.5, inclusive, of this act.

2. The Board shall adopt separate regulations governing the licensing and operation of:

- (a) Facilities for the care of adults during the day; and
  - (b) Residential facilities for groups,
- ↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

- (a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.
- (b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.
- (c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

- (a) The ultimate user's physical and mental condition is stable and is following a predictable course.
- (b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.
- (c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

- (a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and
- (b) The exception, if granted, would not:
  - (1) Cause substantial detriment to the health or welfare of any resident of the facility;
  - (2) Result in more than two residents sharing a toilet facility; or
  - (3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

- (a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;
- (b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;
- (c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and
- (d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

- (a) Facilities that only provide a housing and living environment;
- (b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and
- (c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

↪ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

**Sec. 7.** NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to

449.2428, inclusive, *and sections 2 ~~and 3~~ to 3.5, inclusive, of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, *and sections 2 ~~and 3~~ to 3.5, inclusive, of this act*, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, *and sections 2 ~~and 3~~ to 3.5, inclusive, of this act*, and 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

**Sec. 8.** NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) Impose an administrative penalty of not more than \$5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act**, 449.435 to 449.531, inclusive, and chapter 449A of NRS to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature.



**Sec. 9.** NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive ~~1~~, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act.**

**Sec. 10.** NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, **and sections 2 ~~and 3~~ to 3.5, inclusive, of this act** as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for licensees, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the licensee and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

**Sec. 11. 1.** The Division of Public and Behavioral Health of the Department of Health and Human Services shall review and revise the

regulations adopted pursuant to chapter 449 of NRS to ensure that those regulations:

~~1-1~~ **(a)** Do not conflict with the requirements of sections 2 ~~and 3~~ **to 3.5, inclusive,** of **this** act concerning prohibited bases for discrimination; and

~~1-2~~ **(b)** Use currently accepted terminology that accounts for and protects the rights of transgender persons and persons who do not identify as either male or female.

**2. The State Board of Health shall adopt the regulations described in subsection 2 of section 3.5 of this act on or before July 1, 2020.**

**3. Except as otherwise provided in this subsection, a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed must comply with the regulations adopted pursuant to subsection 2 of section 3.5 of this act on or before July 1, 2021. Such a facility may request from the Division of Public and Behavioral Health of the Department of Health and Human Services an extension of the deadline prescribed by this subsection. The Division may grant such a request upon a showing of good cause.**

Sec. 12. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

Assemblywoman Cohen moved the adoption of the amendment.

Remarks by Assemblywoman Cohen.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 368.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 822.

SUMMARY—Revises provisions relating to protections for victims of crime. (BDR ~~1-166~~ **3-166**)

AN ACT relating to victims of crime; ~~eliminating the statute of limitations in civil actions to recover damages for certain sexual offenses;~~ establishing a rebuttable presumption in civil actions concerning unwelcome or nonconsensual sexual conduct by a person in a position of authority over an alleged victim; ~~revising provisions relating to confidential communications between a victim's advocate and certain victims;~~ authorizing a child adjudicated delinquent for certain unlawful acts who was a victim of sex trafficking or involuntary servitude to petition the juvenile court to vacate the adjudication and seal all records relating thereto; ~~eliminating the statute of limitations for sexual assault and various other sexual offenses; authorizing the imposition of an additional penalty against a person in a position of authority~~

~~over another person who commits a sexual offense against the other person;~~  
 establishing the Sexual Assault ~~[Victims' DNA]~~ **Survivors'** Bill of Rights;  
 increasing the time within which an extended order of protection against a  
 person who allegedly committed a sexual assault may remain effective;  
~~[increasing the term of imprisonment and authorized fine imposed upon a  
 person who possesses a visual presentation depicting sexual conduct of a  
 person under 16 years of age;]~~ **revising provisions relating to such extended  
 orders of protection;** revising provisions relating to the crime of prostitution  
 or solicitation of prostitution; ~~[revising provisions relating to sexual conduct  
 between a law enforcement officer and a person in his or her custody; requiring  
 the Department of Health and Human Services to develop a State Plan for  
 Services for Victims of Crime;]~~ revising provisions relating to investigations  
 by an administrator of a public school into a report of bullying or cyber-  
 bullying; revising provisions relating to facilities that offer services to persons  
 with an intellectual disability or developmental disability; revising provisions  
 relating to the testing of a person alleged to have committed a sexual offense;  
~~[requiring the Advisory Commission on the Administration of Justice to study  
 state laws relating to the crime of prostitution or the solicitation of  
 prostitution;]~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[Existing law provides that certain communications between a victim's  
 advocate and a person who alleges that an act of domestic violence, human  
 trafficking or sexual assault has been committed against the person is deemed  
 to be confidential. Any such person who seeks advice, counseling or assistance  
 from a victim's advocate generally has a privilege to refuse to disclose and to  
 prevent any other person from disclosing such confidential communications.  
 (NRS 49.2546, 49.2547) Section 3 of this bill specifies that such confidential  
 communications are not subject to discovery proceedings.]~~

**Section 2 of this bill establishes a rebuttable presumption in any civil  
 action concerning any unwelcome or nonconsensual sexual conduct,  
 including sexual harassment, that the sexual conduct was unwelcome or  
 nonconsensual if the alleged perpetrator was a person in a position of  
 authority over the alleged victim.**

Existing law: (1) authorizes a person convicted of certain offenses who was  
 the victim of sex trafficking or involuntary servitude to petition the court to  
 vacate the judgment and seal all documents relating to the case; and (2)  
 provides that if the court enters such an order, the court is also required to order  
 sealed the records of the petitioner which relate to the judgment being vacated.  
 (NRS 179.247) **Section 4** of this bill: (1) authorizes a child adjudicated  
 delinquent for certain unlawful acts who was the victim of sex trafficking or  
 involuntary servitude to petition the juvenile court to vacate the adjudication  
 and seal all records relating to the adjudication; and (2) provides that if the  
 juvenile court enters such an order, the juvenile court is also required to order  
 sealed the records of the child which relate to the adjudication being vacated.

~~Existing law establishes the statutes of limitations for felonies and generally provides that an indictment must be found, or an information or complaint filed: (1) for certain specified felonies, including sex trafficking, within 4 years after the commission of the offense; (2) for sexual assault, within 20 years after the commission of the offense; and (3) for any other felony, within 3 years after the commission of the offense. (NRS 171.085) Section 6 of this bill eliminates the statute of limitations for sexual assault and various other sexual offenses that are, depending on the circumstances, punishable as a felony, gross misdemeanor or misdemeanor, and provides that a prosecution for any such offense may be commenced at any time after the violation is committed. Sections 7-10 of this bill make conforming changes.~~

~~Existing law provides that a civil action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age generally must be commenced within 20 years after the plaintiff: (1) reaches 18 years of age; or (2) discovers or reasonably should have discovered that his or her injury was caused by the sexual abuse, whichever occurs later. (NRS 11.215) Section 1 of this bill provides that there is no limitation of time within which a civil action to recover damages for such an injury or for the sexual assault of the plaintiff must be commenced and that any such action may be commenced at any time after the offense is committed.~~

~~Existing law establishes the imposition of a penalty for the commission of certain specified crimes that is in addition to the usual penalty imposed for the offense. (NRS 193.161-193.169) Section 11 of this bill authorizes the imposition of an additional penalty against any person in a position of authority over another person who commits a sexual offense against the other person. Section 11 provides that, in addition to the term of imprisonment prescribed for the crime, if the crime committed is: (1) a misdemeanor or gross misdemeanor, the person must be punished by imprisonment in the county jail for a term equal to the term of imprisonment prescribed for the crime; or (2) a felony, the person must be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. Section 11 also establishes the information that a court is required to consider in determining the length of the additional penalty imposed.~~

~~Section 2 of this bill establishes a rebuttable presumption in any civil action concerning any unwelcome or nonconsensual sexual conduct, including sexual harassment, that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a person in a position of authority over the alleged victim.~~

Existing law: (1) generally requires a law enforcement agency, within 30 days after receiving a sexual assault forensic evidence kit (hereinafter “SAFE kit”) to submit the SAFE kit to the applicable forensic laboratory responsible for conducting a genetic marker analysis; and (2) requires the forensic laboratory to test a SAFE kit not later than 120 days after receiving it. (NRS 200.3786) ~~Sections 14 and 15~~ **Sections 14-15.8** of this bill establish the Sexual Assault

~~[Victims' DNA]~~ **Survivors' Bill of Rights.** ~~[Section 15 requires a law enforcement agency, upon the request of a victim of sexual assault, to inform the victim of the status of the DNA testing of a SAFE kit from the victim's case. Section 15 also requires a law enforcement agency responsible for providing information to a victim to do so in a timely manner and, upon request, advise the victim of any significant changes in the information of which the law enforcement agency is aware. Section 15 further establishes certain rights of a victim of sexual assault.]~~ **Section 14.9 of this bill defines the term "survivor" for purposes of the Bill of Rights as a person who is the victim of a sexual assault or certain other persons if the victim is incompetent, deceased or a minor. Sections 15.2-15.6 of this bill set forth procedures regarding the collection and analysis of SAFE kits. Section 15.8 of this bill prohibits a defendant from challenging his or her conviction based on certain persons not adhering to the collection and analysis timelines set forth in such procedures.**

Existing law authorizes any person who reasonably believes that the crime of sexual assault has been committed against him or her by another person to petition a court for a temporary or extended order to restrict the conduct of the person who allegedly committed the sexual assault. (NRS 200.378) Existing law provides that any such extended order expires within a time fixed by the court not to exceed 1 year. (NRS 200.3782) **Section 17** of this bill increases the time within which such an extended order can expire to ~~1~~ **3** years.

~~[Existing law provides that a person who knowingly and willfully has in his or her possession any visual presentation depicting sexual conduct of a person under 16 years of age is guilty: (1) for the first offense, of a category B felony and must be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000; and (2) for any subsequent offense, of a category A felony and must be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than \$5,000. (NRS 200.730) Section 18 of this bill: (1) increases the minimum term of imprisonment for a first or subsequent offense to 5 years; (2) increases the maximum term of imprisonment for a first offense to 20 years; and (3) increases the fine that may be imposed for a first or subsequent offense to \$250,000.]~~ **Section 17 also: (1) requires the court to enter a finding of fact providing the basis for the imposition of an extended order for a period of greater than 1 year; and (2) authorizes the protected party or the adverse party at any time while an extended order is effective to move a court to modify or dissolve an extended order because of changed circumstances of the parties.**

Existing law prohibits any person from engaging in prostitution or the solicitation therefor except in a licensed house of prostitution and provides that a prostitute who violates such a prohibition is guilty of a misdemeanor. (NRS 201.354) **Section 19** of this bill provides that if a prostitute: (1) is detained,

arrested or cited for engaging in prostitution or the solicitation of prostitution, a peace officer must provide to the prostitute certain information and opportunities for connecting with social service agencies that may provide assistance to the prostitute; and (2) is determined by the prosecuting attorney to be a victim of sex trafficking, the charge must be dismissed.

~~Existing law prohibits a person from voluntarily engaging in sexual conduct with a prisoner who is in lawful custody or confinement and provides that any person who violates such a prohibition is guilty of a category D felony. (NRS 212.187) Existing law defines the term “prisoner” for the purposes of such a prohibition as including any person held in custody under process of law or under lawful arrest. (NRS 208.085) Section 20 of this bill: (1) clarifies that such a prohibition applies to a law enforcement officer who voluntarily engages in sexual conduct with a person who is in his or her custody; and (2) provides that if a law enforcement officer violates such a prohibition by voluntarily engaging in sexual conduct with a person who is in his or her custody, it is not a defense that the person in his or her custody consented to the sexual conduct.~~

Existing law requires any teacher, administrator, coach or other staff member of a public school who witnesses any bullying or cyber-bullying on the premises of any school, at an activity sponsored by a school or on any school bus to report the violation to the administrator in charge of the school or his or her designee on the same day that the violation is witnessed. The administrator or designee is required to immediately begin an investigation into the report, which must be completed not later than 2 school days after the administrator or designee received the report. (NRS 388.1351) **Section 25** of this bill provides that such provisions must not be construed to place any limit on the time within which an investigation concerning any alleged act that constitutes sexual assault must be completed.

Existing law establishes provisions concerning persons with intellectual disabilities and persons with developmental disabilities, including provisions relating to facilities that offer services to such persons. (Chapter 435 of NRS) **Section 26** of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services to ensure that each facility to which a person with an intellectual disability or a person with a developmental disability is able to be admitted provides: (1) training to each employee of the facility regarding the protocol that must be followed if the employee becomes aware of any sexual abuse of a person that is admitted to the facility; and (2) appropriate education to each person that is admitted to the facility that explains what sexual abuse is and how to report it.

Existing law requires: (1) the district health officer in a district or the Chief Medical Officer, or the designee thereof, to test a specimen obtained from an arrested person alleged to have committed a sexual offense for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease; and (2) the agency that has custody of the arrested person to obtain the specimen and submit it for testing. The tests must be performed

as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 48 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and not later than 48 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act. (NRS 441A.320) **Section 27** of this bill ~~[(1)]~~ revises the maximum time allowed to perform the tests from 48 hours to ~~196~~ **72** hours after the person alleged to have committed a crime is arrested or, if the person is a child, a petition alleging the commission of a delinquent act is filed ~~;~~ and ~~(2)~~ provides that in all cases, the tests must be performed before the arrested person is released from custody.

~~Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) Section 27.3 of this bill requires the Commission to study state laws relating to the crime of prostitution or the solicitation of prostitution and to submit a report of the results of its study and any recommendations for legislation to the 81st session of the Nevada Legislature.~~

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

**Section 1.** ~~NRS 11.215 is hereby amended to read as follows:~~

~~11.215 1. [Except as otherwise provided in subsection 2 and NRS 217.007,] *There is no limitation of time within which* an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age [must be commenced within 20 years after] *or the sexual assault of the plaintiff*;~~

~~(a) Reaches 18 years of age; or~~

~~(b) Discovers or reasonably should have discovered that his or her injury was caused by the sexual abuse,~~

~~which ever occurs later.] *must be commenced. Such an action may be commenced at any time after the offense is committed.*~~

~~2. An action to recover damages pursuant to NRS 41.1396 must be commenced within 20 years after the occurrence of the following, whichever is later:~~

~~(a) The court enters a verdict in a related criminal case; or~~

~~(b) The victim reaches the age of 18 years.~~

~~3. As used in this section [, "sexual"]:~~

~~(a) "Sexual abuse" has the meaning ascribed to it in NRS 432B.100.~~

~~(b) "Sexual assault" means a violation of NRS 200.366.] (Deleted by amendment.)~~

**Sec. 2.** Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. In any civil action concerning any unwelcome or nonconsensual sexual conduct, including, without limitation, sexual harassment, there is a**

*rebuttable presumption that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a person in a position of authority over the alleged victim.*

2. As used in this section:

(a) *“Person in a position of authority” ~~has the meaning ascribed to it in section 11 of this act.~~ means a parent, relative, household member, employer, supervisor, youth leader, scout leader, coach, mentor in a mentoring program, teacher, professor, counselor, school administrator, religious leader, doctor, nurse, psychologist, other health care provider, guardian ad litem, guardian, babysitter, police officer or other law enforcement officer or any other person who, by reason of his or her position, is able to exercise significant or undue influence over the victim.*

(b) *“Sexual harassment” has the meaning ascribed to it in NRS 176A.280.*

Sec. 3. ~~NRS 49.2547 is hereby amended to read as follows:  
49.2547 Except as otherwise provided in NRS 49.2549, a victim who seeks advice, counseling or assistance from a victim’s advocate has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications set forth in NRS 49.2546. Any such confidential communications are not subject to discovery proceedings. (Deleted by amendment.)~~

Sec. 4. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a child has been adjudicated delinquent for an unlawful act listed in subsection 2, the child may petition the juvenile court for an order:*

(a) *Vacating the adjudication; and*

(b) *Sealing all records relating to the adjudication.*

2. *A child may file a petition pursuant to subsection 1 if the child was adjudicated delinquent for an unlawful act in violation of:*

(a) *NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the child was not alleged to be a customer of a prostitute;*

(b) *NRS 207.200, for unlawful trespass;*

(c) *Paragraph (b) of subsection 1 of NRS 463.350, for loitering; or*

(d) *A county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.*

3. *The juvenile court may grant a petition filed pursuant to subsection 1 if:*

(a) *The petitioner was adjudicated delinquent for an unlawful act described in subsection 2;*

(b) *The participation of the petitioner in the unlawful act was the result of the petitioner having been a victim of:*

(1) *Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or*



(2) *Involuntary servitude as described in NRS 200.463 or 200.4631; and*

(c) *The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.*

4. *Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:*

(a) *Notify the district attorney and the chief probation officer or the Chief of the Youth Parole Bureau and allow any person who has evidence that is relevant to consideration of the petition to testify at the hearing on the petition; and*

(b) *Take into consideration any reasonable concerns for the safety of the petitioner, family members of the petitioner or other victims that may be jeopardized by the granting of the petition.*

5. *If the court grants a petition filed pursuant to subsection 1, the court shall:*

(a) *Vacate the adjudication and dismiss the accusatory pleading; and*

(b) *Order sealed all records relating to the adjudication.*

6. *If a petition filed pursuant to subsection 1 does not satisfy the requirements of NRS 62H.130 or the juvenile court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the juvenile court may enter an order to vacate the adjudication and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the adjudication to be vacated.*

7. *If the juvenile court enters an order pursuant to subsection 6, the court shall also order sealed all records of the petitioner which relate to the adjudication being vacated in accordance with paragraph (b) of subsection 5, regardless of whether any records relating to other adjudications are ineligible for sealing either by operation of law or because of a deficiency in the petition.*

Sec. 5. NRS 62H.130 is hereby amended to read as follows:

62H.130 1. If a child is less than 21 years of age, the child or a probation or parole officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child. ~~¶The~~ *Except as otherwise provided in section 4 of this act, the petition may be filed:*

(a) *Not earlier than 3 years after the child was last adjudicated in need of supervision, adjudicated delinquent or placed under the supervision of the juvenile court pursuant to NRS 62C.230; and*

(b) *If, at the time the petition is filed, the child does not have any delinquent or criminal charges pending.*

2. *If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and, if a probation or parole officer is not the petitioner, the chief probation officer or the Chief of the Youth Parole Bureau.*

3. The district attorney and the chief probation officer or any of their deputies, the Chief of the Youth Parole Bureau or his or her designee, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

4. Except as otherwise provided in subsection 6, after the hearing on the petition, if the juvenile court finds that during the applicable 3-year period, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude and the child has been rehabilitated to the satisfaction of the juvenile court, the juvenile court:

(a) May enter an order sealing all records relating to the child if the child is less than 18 years of age; and

(b) Shall enter an order sealing all records relating to the child if the child is 18 years of age or older.

5. In determining whether a child has been rehabilitated to the satisfaction of the juvenile court pursuant to subsection 4, the juvenile court may consider:

(a) The age of the child;

(b) The nature of the offense and the role of the child in the commission of the offense;

(c) The behavior of the child after the child was last adjudicated in need of supervision or adjudicated delinquent, placed under the informal supervision of a probation officer pursuant to NRS 62C.200 or placed under the supervision of the juvenile court pursuant to NRS 62C.230;

(d) The response of the child to any treatment or rehabilitation program;

(e) The education and employment history of the child;

(f) The statement of the victim;

(g) The nature of any criminal offense for which the child was convicted;

(h) Whether the sealing of the record would be in the best interest of the child and the State; and

(i) Any other circumstance that may relate to the rehabilitation of the child.

6. If the juvenile court retains jurisdiction over a civil judgment and a person against whom the civil judgment was entered pursuant to NRS 62B.420, the case caption, case number and order entering the civil judgment must not be sealed until the civil judgment is satisfied or expires. After the civil judgment is satisfied or expires, the child or a person named as a judgment debtor may file a petition to seal such information.

**Sec. 6. ~~NRS 171.080 is hereby amended to read as follows:~~**

~~171.080 There is no limitation of the time within which a prosecution for:~~  
~~1. Murder must be commenced. It may be commenced at any time after the death of the person killed.~~

~~2. A violation of NRS 200.366, 200.368, 200.710, 200.720, 200.725, 200.727, 200.730, 201.180, 201.230, 201.540, 201.550, 201.555, 201.560 or 202.445 must be commenced. It may be commenced at any time after the violation is committed.~~ **(Deleted by amendment.)**

Sec. 7. ~~NRS 171.083 is hereby amended to read as follows:~~

~~171.083 1. If, at any time during the period of limitation prescribed in NRS 171.085 and 171.095, [a victim of a sexual assault, a person authorized to act on behalf of a victim of a sexual assault, or] a victim of sex trafficking or a person authorized to act on behalf of a victim of sex trafficking [,] files with a law enforcement officer a written report concerning the [sexual assault or] sex trafficking, the period of limitation prescribed in NRS 171.085 and 171.095 is removed and there is no limitation of the time within which a prosecution for the [sexual assault or] sex trafficking must be commenced.~~

~~2. If a written report is filed with a law enforcement officer pursuant to subsection 1, the law enforcement officer shall provide a copy of the written report to the victim or the person authorized to act on behalf of the victim.~~

~~3. If a victim of [a sexual assault or] sex trafficking is under a disability during any part of the period of limitation prescribed in NRS 171.085 and 171.095 and a written report concerning the [sexual assault or] sex trafficking is not otherwise filed pursuant to subsection 1, the period during which the victim is under the disability must be excluded from any calculation of the period of limitation prescribed in NRS 171.085 and 171.095.~~

~~4. For the purposes of this section, a victim of [a sexual assault or] sex trafficking is under a disability if the victim is insane, intellectually disabled, mentally incompetent or in a medically comatose or vegetative state.~~

~~5. As used in this section, "law enforcement officer" means:~~

~~(a) A prosecuting attorney;~~

~~(b) A sheriff of a county or the sheriff's deputy;~~

~~(c) An officer of a metropolitan police department or a police department of an incorporated city; or~~

~~(d) Any other person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.] (Deleted by amendment.)~~

Sec. 8. ~~NRS 171.085 is hereby amended to read as follows:~~

~~171.085 Except as otherwise provided in NRS 171.080, 171.083, 171.084 and 171.095, an indictment for:~~

~~1. Theft, robbery, burglary, forgery, arson, sex trafficking, a violation of NRS 90.570, a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 or a violation of NRS 205.377 must be found, or an information or complaint filed, within 4 years after the commission of the offense.~~

~~2. [Sexual assault must be found, or an information or complaint filed, within 20 years after the commission of the offense.~~

~~3.] Any felony other than the felonies listed in [subsections] **subsection 1** [and 2] must be found, or an information or complaint filed, within 3 years after the commission of the offense.] (Deleted by amendment.)~~

Sec. 9. ~~NRS 171.090 is hereby amended to read as follows:~~

~~171.090 Except as otherwise provided in NRS **171.080**, 171.095, 202.885 and 624.800, an indictment for:~~

~~1. A gross misdemeanor must be found, or an information or complaint filed, within 2 years after the commission of the offense.~~

~~2. Any other misdemeanor must be found, or an information or complaint filed, within 1 year after the commission of the offense.} (Deleted by amendment.)~~

~~Sec. 10. [NRS 171.095 is hereby amended to read as follows:~~

~~171.095 1. Except as otherwise provided in subsection 2 and NRS 171.080, 171.083 and 171.084:~~

~~(a) If a felony, gross misdemeanor or misdemeanor is committed in a secret manner, an indictment for the offense must be found, or an information or complaint filed, within the periods of limitation prescribed in NRS 171.085, 171.090 and 624.800 after the discovery of the offense, unless a longer period is allowed by paragraph (b) or (c) or the provisions of NRS 202.885.~~

~~(b) An indictment must be found, or an information or complaint filed, for any offense constituting [sexual abuse of a child as defined in NRS 432B.100 or] sex trafficking of a child as defined in NRS 201.300 [;] before the victim is:~~

~~(1) Thirty-six years old if the victim discovers or reasonably should have discovered that he or she was a victim of the [sexual abuse or] sex trafficking by the date on which the victim reaches that age; or~~

~~(2) Forty-three years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the [sexual abuse or] sex trafficking by the date on which the victim reaches 36 years of age.~~

~~(c) If a felony is committed pursuant to NRS 205.461 to 205.4657, inclusive, against a victim who is less than 18 years of age at the time of the commission of the offense, an indictment for the offense must be found, or an information or complaint filed, within 4 years after the victim discovers or reasonably should have discovered the offense.~~

~~2. If any indictment found, or an information or complaint filed, within the time prescribed in subsection 1 is defective so that no judgment can be given thereon, another prosecution may be instituted for the same offense within 6 months after the first is abandoned.} (Deleted by amendment.)~~

~~Sec. 11. [Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in NRS 193.169, any person in a position of authority over another person who commits a sexual offense against the other person shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished, if the crime is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for a term equal to the term of imprisonment prescribed by statute for the crime, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.~~

~~2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:~~

~~—(a) The facts and circumstances of the crime or criminal violation;~~

~~—(b) The criminal history of the person;~~

~~—(c) The impact of the crime or criminal violation on any victim;~~

~~—(d) Any mitigating factors presented by the person; and~~

~~—(e) Any other relevant information.~~

~~→ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.~~

~~—3. The sentence prescribed by this section:~~

~~—(a) Must not exceed the sentence imposed for the crime or criminal violation; and~~

~~—(b) Must run consecutively with the sentence prescribed by statute for the crime or criminal violation.~~

~~—4. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.~~

~~—5. As used in this section:~~

~~—(a) “Person in a position of authority” means a parent, relative, household member, employer, supervisor, youth leader, scout leader, coach, mentor in a mentoring program, teacher, professor, counselor, school administrator, religious leader, doctor, nurse, psychologist, other health care provider, guardian ad litem, guardian, babysitter, police officer or other law enforcement officer or any other person who, by reason of his or her position, is able to exercise significant or undue influence over the victim.~~

~~—(b) “Sexual offense” has the meaning ascribed to it in NRS 179D.097.]~~

~~(Deleted by amendment.)~~

Sec. 12. ~~[NRS 193.169 is hereby amended to read as follows:~~

~~—193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.1677, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 or section 11 of this act must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person’s conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~—2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection 3 of NRS 193.161, subsection 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.1677, 193.168, 453.3335, 453.3345 or 453.3351 or section 11 of this act even if the person’s conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.~~

~~—3. This section does not:~~

~~(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.~~

~~(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.~~ **(Deleted by amendment.)**

Sec. 13. ~~{Chapter 200}~~ **Title 14** of NRS is hereby amended by adding thereto **a new chapter to consist of** the provisions set forth as sections 14 ~~and 15~~ **to 15.8, inclusive**, of this act.

Sec. 14. ~~{Section 15}~~ **Sections 14 to 15.8, inclusive, of this act may be cited as the Sexual Assault {Victims' DNA} Survivors' Bill of Rights.**

Sec. 14.1. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 14.2 to 14.9, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 14.2. "CODIS" has the meaning ascribed to it in NRS 176.09113.

Sec. 14.3. "DNA profile" has the meaning ascribed to it in NRS 176.09115.

Sec. 14.4. "Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.

Sec. 14.5. "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.

Sec. 14.55. "Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.

Sec. 14.6. "Law enforcement agency" means any agency, office or bureau of this State or a political subdivision of this State, the primary duty of which is to enforce the law.

Sec. 14.7. "Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

Sec. 14.8. "State DNA Database" means the database established pursuant to NRS 176.09121.

Sec. 14.9. "Survivor" means a person who is a victim of sexual assault, as defined in NRS 217.280 or, if the victim is incompetent, deceased or a minor, the parent, guardian, spouse, legal representative or other person related to the victim within the second degree of consanguinity or affinity, unless such person is the defendant or accused or is convicted of the sexual assault.

Sec. 15. ~~{}~~ **The Legislature hereby finds and declares that:**

~~{(a)}~~ **1. Victims of sexual assault have a strong interest in the investigation and prosecution of their cases.**

~~{(b)}~~ **2. Law enforcement agencies have an obligation to victims of sexual assault to be responsive to the victims concerning the developments of forensic testing and the investigation of their cases.**

~~{(c)}~~ **3. The growth of the State DNA Database and CODIS makes it possible for many perpetrators of sexual assault to be identified after their first offense.**

~~2. Upon the request of a victim of sexual assault, the law enforcement agency investigating the sexual assault shall inform the victim of the status of the DNA testing of a sexual assault forensic evidence kit from the victim's case. The law enforcement agency may require that such a request be in writing, and shall respond to such a request with an oral or written communication, including, without limitation, a communication sent by electronic mail if the victim has provided his or her electronic mail address to the law enforcement agency. This subsection must not be construed to require a law enforcement agency to communicate with a victim of sexual assault or the designee of the victim regarding the status of the testing of a sexual assault forensic evidence kit if the victim or his or her designee does not specifically request such information.~~

~~3. Subject to the availability of sufficient resources to respond to requests for information, a victim of sexual assault has the following rights:~~

~~(a) The right to be informed of whether a DNA profile was obtained from the DNA testing of a sexual assault forensic evidence kit from the victim's case.~~

~~(b) The right to be informed of whether a DNA profile obtained from the DNA testing of a sexual assault forensic evidence kit from the victim's case has been entered into the State DNA Database.~~

~~(c) The right to be informed of whether there is a match between a DNA profile obtained from the DNA testing of a sexual assault forensic evidence kit from the victim's case and a DNA profile contained in the State DNA Database, provided that disclosure of such information will not impede or compromise any ongoing investigation.~~

~~4. A victim of sexual assault may designate a sexual assault victim advocate or other support person of the victim's choosing to act as a recipient of the information required to be provided pursuant to this section.~~

~~5. A law enforcement agency responsible for providing information pursuant to this section shall do so in a timely manner and, upon request of the victim or his or her designee, advise the victim or designee of any significant changes in the information of which the law enforcement agency is aware. To be entitled to receive such notice, the victim or his or her designee shall keep the law enforcement agency informed of the name, address, telephone number and any electronic mail address of the person to whom the information should be provided and any changes thereto.~~

~~6. The provisions of this section are intended to encourage a law enforcement agency to notify victims of sexual assault of information that is in the possession of the law enforcement agency, not to affect the manner of or frequency with which such information is provided to the law enforcement agency.~~

~~7. A defendant or person convicted or accused of a crime against a victim of sexual assault has no standing to object to any failure to comply with this section. The failure by a law enforcement agency to provide a right or notice~~

~~to a victim of sexual assault pursuant to this section cannot be used by a defendant to seek to have his or her conviction or sentence set aside.~~

~~8. As used in this section:~~

~~(a) "CODIS" has the meaning ascribed to it in NRS 176.09113.~~

~~(b) "State DNA Database" has the meaning ascribed to it in NRS 176.09119.]~~

Sec. 15.2. 1. A survivor has the right to prompt genetic marker analysis of a sexual assault forensic evidence kit pursuant to NRS 200.3786.

2. A sexual assault forensic evidence kit must be transported to a forensic laboratory and analyzed pursuant to NRS 200.3786, unless the survivor requests in writing at any time before such analysis, for the forensic laboratory to defer analysis of the sexual assault forensic evidence kit.

3. Biological evidence, including, without limitation, a sexual assault forensic evidence kit, secured in connection with the investigation or prosecution of a criminal case must be preserved and stored in accordance with the provisions of this subsection and NRS 176.0912. A sexual assault forensic evidence kit that is in the custody of an agency of criminal justice must be retained for:

(a) If the sexual assault forensic evidence kit is associated with an uncharged or unsolved sexual assault, at least 50 years.

(b) If the sexual assault forensic evidence kit is associated with an unreported or anonymous sexual assault, at least 20 years.

4. If a survivor has requested to defer analysis pursuant to subsection 2, the survivor may request that the forensic laboratory analyze the sexual assault forensic evidence kit at any later date before the expiration of the retention period pursuant to subsection 3.

5. A survivor has the right to the information regarding the timeline of the genetic marker analysis of sexual assault forensic evidence kits pursuant to NRS 200.3786.

Sec. 15.4. Upon the request of a survivor, he or she has the right to be informed of:

1. The results of the genetic marker analysis of the sexual assault forensic evidence kit of the survivor;

2. Whether the analysis yielded a DNA profile; and

3. Whether the analysis yielded the DNA profile of the defendant or person accused or convicted of a crime against the survivor or a person already in CODIS.

Sec. 15.6. The failure of a law enforcement agency to take possession of a sexual assault forensic evidence kit pursuant to the Sexual Assault Survivors' Bill of Rights, or the failure of the law enforcement agency to submit such evidence for genetic marker analysis within the timeline prescribed pursuant to the Bill of Rights, does not alter:

1. The authority of a law enforcement agency to take possession of that evidence or to submit that evidence to a forensic laboratory; and



2. The authority of the forensic laboratory to accept and analyze the evidence or to upload an eligible DNA profile obtained from such evidence to CODIS or the State DNA Database.

Sec. 15.8. 1. A defendant or person accused or convicted of a crime against a survivor does not have standing to seek to have his or her conviction or sentence set aside for any failure by a law enforcement agency, forensic laboratory or other relevant entity to comply with the timing requirements of the Sexual Assault Survivors' Bill of Rights.

2. Failure by a law enforcement agency, forensic laboratory or other relevant entity to comply with the requirements of the Sexual Assault Survivors' Bill of Rights does not constitute grounds for challenging the validity of a match or any information in the State DNA Database during any criminal or civil proceeding, and any evidence of such a match or any information in the State DNA Database must not be excluded by a court on such grounds.

Sec. 16. NRS 200.364 is hereby amended to read as follows:

~~200.364 As used in NRS 200.364 to 200.3788, inclusive, and sections 14 and 15 of this act, unless the context otherwise requires:~~

~~1. "Forensic laboratory" has the meaning ascribed to it in NRS 176.09117.~~

~~2. "Forensic medical examination" has the meaning ascribed to it in NRS 217.300.~~

~~3. "Genetic marker analysis" has the meaning ascribed to it in NRS 176.09118.~~

~~4. "Offense involving a pupil or child" means any of the following offenses:~~

~~(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.~~

~~(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.~~

~~(c) Sexual conduct between certain employees or contractors of or volunteers for an entity which provides services to children and a person under the care, custody, control or supervision of the entity pursuant to NRS 201.555.~~

~~5. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or child or sex trafficking.~~

~~6. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.~~

~~7. "Sexual assault forensic evidence kit" means the forensic evidence obtained from a forensic medical examination.~~

~~8. "Sexual offense" means any of the following offenses:~~

~~(a) Sexual assault pursuant to NRS 200.366.~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368.~~

~~9. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.~~

~~10. “Statutory sexual seduction” means ordinary sexual intercourse, anal intercourse or sexual penetration committed by a person 18 years of age or older with a person who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.~~

~~11. “Victim” means a person who is a victim of a sexual offense, an offense involving a pupil or child or sex trafficking.~~

~~12. “Victim of sexual assault” has the meaning ascribed to it in NRS 217.280.] (Deleted by amendment.)~~

Sec. 17. NRS 200.3782 is hereby amended to read as follows:

200.3782 1. A temporary order issued pursuant to NRS 200.378 expires within such time, not to exceed 30 days, as the court fixes. If a petition for an extended order is filed within the period of a temporary order, the temporary order remains in effect until the hearing on the extended order is held.

2. On 2 days’ notice to the party who obtained the temporary order, the adverse party may appear and move its dissolution or modification, and in that event, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

3. An extended order expires within such time, not to exceed ~~1 year, 5~~ 3 years, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than ~~1 year, 5~~ 3 years.

4. A court shall enter a finding of fact providing the basis for the imposition of an extended order effective for more than 1 year.

5. At any time while the extended order is in effect, the party who obtained the extended order or the adverse party may appear and move for its dissolution or modification based on changes of circumstance of the parties, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

6. This section must not be construed to affect the right of an adverse party to an interlocutory appeal pursuant to NRS 33.030.

Sec. 18. ~~NRS 200.730 is hereby amended to read as follows:~~

~~200.730 A person who knowingly and willfully has in his or her possession for any purpose any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct:~~

~~1. For the first offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than [1 year] 5 years and a maximum term of not more than [6] 20 years, and may be further punished by a fine of not more than [\$5,000.] \$250,000.~~

~~2. For any subsequent offense, is guilty of a category A felony and shall be punished by imprisonment in the state prison for a minimum term of not less than [1 year] 5 years and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than [\$5,000.] \$250,000.] (Deleted by amendment.)~~

**Sec. 19.** NRS 201.354 is hereby amended to read as follows:

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. A prostitute who violates subsection 1 is guilty of a misdemeanor. *A peace officer who:*

*(a) Detains, but does not arrest or issue a citation to a prostitute for a violation of subsection 1 shall, before releasing the prostitute, provide information regarding and opportunities for connecting with social service agencies that may provide assistance to the prostitute. The Department of Health and Human Services shall assist law enforcement agencies in providing information regarding and opportunities for connecting with such social service agencies pursuant to this paragraph.*

*(b) Arrests or issues a citation to a prostitute for a violation of subsection 1 shall, before the prostitute is released from custody or cited:*

*(1) Inform the prostitute that he or she may be eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032; and*

*(2) Provide the information regarding and opportunities for connecting with social service agencies described in paragraph (a).*

3. Except as otherwise provided in subsection 5, a customer who violates subsection 1:

(a) For a first offense, is guilty of a misdemeanor and shall be punished as provided in NRS 193.150, and by a fine of not less than \$400.

(b) For a second offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$800.

(c) For a third or subsequent offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140, and by a fine of not less than \$1,300.

4. In addition to any other penalty imposed, the court shall order a person who violates subsection 3 to pay a civil penalty of not less than \$200 per offense. The civil penalty must be paid to the district attorney or city attorney of the jurisdiction in which the violation occurred. If the civil penalty imposed pursuant to this subsection:

(a) Is not within the person's present ability to pay, in lieu of paying the penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the civil penalty.

(b) Is not entirely within the person's present ability to pay, in lieu of paying the entire civil penalty, the court may allow the person to perform community service for a reasonable number of hours, the value of which would be commensurate with the amount of the reduction of the civil penalty.

5. A customer who violates subsection 1 by soliciting a child for prostitution:

(a) For a first offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130, and by a fine of not more than \$5,000.

(b) For a second offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130. The court shall not grant probation to or suspend the sentence of a person punished pursuant to this paragraph.

6. Any civil penalty collected by a district attorney or city attorney pursuant to subsection 4 must be deposited in the county or city treasury, as applicable, to be used for:

(a) The enforcement of this section; and

(b) Programs of treatment for persons who solicit prostitution which are certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

↳ Not less than 50 percent of the money deposited in the county or city treasury, as applicable, pursuant to this subsection must be used for the enforcement of this section.

7. If a person who violates subsection 1 is ordered pursuant to NRS 4.373 or 5.055 to participate in a program for the treatment of persons who solicit prostitution, upon fulfillment of the terms and conditions of the program, the court may discharge the person and dismiss the proceedings against the person. If the court discharges the person and dismisses the proceedings against the person, a nonpublic record of the discharge and dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section for participation in a program of treatment for persons who solicit prostitution. Except as otherwise provided in this subsection, discharge and dismissal under this subsection is without adjudication of guilt and is not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for a second or subsequent conviction or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the proceedings. The person may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge the proceedings in response to an inquiry made of the person for any purpose. Discharge and dismissal under this subsection may occur only once with respect to any person. A professional licensing board may consider a proceeding under this subsection in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee.

8. Except as limited by subsection 9, if a person is discharged and the proceedings against the person are dismissed pursuant to subsection 7, the court shall, without a hearing, order sealed all documents, papers and exhibits

in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

9. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

**10. *If, at any time before the trial of a prostitute charged with a violation of subsection 1, the prosecuting attorney has reason to believe that the prostitute is a victim of sex trafficking, the prosecuting attorney shall dismiss the charge. As used in this subsection, "sex trafficking" means a violation of subsection 2 of NRS 201.300.***

**Sec. 20. [NRS 212.187 is hereby amended to read as follows:**

~~212.187 1. A prisoner who is in lawful custody or confinement, other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement, and who voluntarily engages in sexual conduct with another person who is not an employee of or a contractor or volunteer for a prison is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~2. Except as otherwise provided in NRS 212.188, a person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or confinement, [other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement,] including, without limitation, a law enforcement officer who voluntarily engages in sexual conduct with a person who is in his or her custody, is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~3. If a law enforcement officer violates this section by voluntarily engaging in sexual conduct with a person who is in his or her custody, it is not a defense that the person in his or her custody consented to the sexual conduct.~~

~~4. As used in this section [,"sexual"]:~~

~~(a) "Lawful custody or confinement" does not include being in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement.~~

~~(b) "Sexual conduct":~~

~~[(a) (1) Includes acts of masturbation, sexual penetration or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.~~

~~[(b) (2) Does not include acts of a person who has custody of a prisoner or an employee of or a contractor or volunteer for the prison in which the prisoner is confined that are performed to carry out the necessary duties of such a person, employee, contractor or volunteer.] (Deleted by amendment.)~~

**Sec. 21.** (Deleted by amendment.)

**Sec. 22.** (Deleted by amendment.)

**Sec. 23.** (Deleted by amendment.)

**Sec. 24.** (Deleted by amendment.)

**Sec. 25.** NRS 388.1351 is hereby amended to read as follows:

388.1351 1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. Except as otherwise provided in this subsection, upon receiving a report required by subsection 1, the administrator or designee shall immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying and shall begin an investigation into the report. If the administrator or designee does not have access to the reported victim of the alleged violation of NRS 388.135, the administrator or designee may wait until the next school day when he or she has such access to take the action required by this subsection.

3. The investigation conducted pursuant to subsection 2 must include, without limitation:

(a) Except as otherwise provided in subsection 4, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported bullying or cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the bullying or cyber-bullying. The notification must be provided:

(1) If the bullying or cyber-bullying is reported before the end of school hours on a school day, before the school's administrative office closes on the day on which the bullying or cyber-bullying is reported; or

(2) If the bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, before the school's administrative office closes on the school day following the day on which the bullying or cyber-bullying is reported.

(b) Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.

4. If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection 3.

5. Except as otherwise provided in this subsection, an investigation required by this section must be completed not later than 2 school days after the administrator or designee receives a report required by subsection 1. If extenuating circumstances prevent the administrator or designee from

completing the investigation required by this section within 2 school days after making a good faith effort, 1 additional school day may be used to complete the investigation.

6. An administrator or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all parents or guardians who must be notified pursuant to paragraph (a) of subsection 3 as part of the investigation.

7. If a violation is found not to have occurred, information concerning the incident must not be included in the record of the reported aggressor.

8. Not later than 10 school days after receiving a report required by subsection 1, the administrator or designee shall meet with each reported victim of the bullying or cyber-bullying to inquire about the well-being of the reported victim and to ensure that the reported bullying or cyber-bullying, as applicable, is not continuing.

9. To the extent that information is available, the administrator or his or her designee shall provide a list of any resources that may be available in the community to assist a pupil to each parent or guardian of a pupil to whom notice was provided pursuant to this section as soon as practicable. Such a list may include, without limitation, resources available at no charge or at a reduced cost and may be provided in person or by electronic or regular mail. If such a list is provided, the administrator, his or her designee, or any employee of the school or the school district is not responsible for providing such resources to the pupil or ensuring the pupil receives such resources.

10. The parent or guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the administrator or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Not later than 30 days after receiving a response provided in accordance with such a policy, the parent or guardian may submit a complaint to the Department. The Department shall consider and respond to the complaint pursuant to procedures and standards prescribed in regulations adopted by the Department.

11. If a violation of NRS 388.135 is found to have occurred, the parent or guardian of a pupil who is a victim of bullying or cyber-bullying may request that the board of trustees of the school district in which the pupil is enrolled to assign the pupil to a different school in the school district. Upon receiving such a request, the board of trustees shall, in consultation with the parent or guardian of the pupil, assign the pupil to a different school.

12. A principal or his or her designee shall submit a monthly report to the direct supervisor of the principal that includes for the school the number of:

- (a) Reports received pursuant to subsection 1;
- (b) Times in which a violation of NRS 388.135 is found to have occurred;

and

- (c) Times in which no violation of NRS 388.135 is found to have occurred.

13. A direct supervisor who receives a monthly report pursuant to subsection 12 shall, each calendar quarter, submit a report to the Office for a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter, the:

- (a) Total number of reports received pursuant to subsection 1;
- (b) Number of times in which a violation of NRS 388.135 is found to have occurred; and

occurred; and

(c) Number of times in which no violation of NRS 388.135 is found to have occurred.

14. School hours and school days are determined for the purposes of this section by the schedule established by the governing body for the school.

**15. *The provisions of this section must not be construed to place any limit on the time within which an investigation concerning any alleged act that constitutes sexual assault must be completed.***

**Sec. 26.** Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

***The Division shall ensure that each facility to which a person with an intellectual disability or a person with a developmental disability is able to be admitted pursuant to this chapter provides:***

***1. Training to each employee of the facility regarding the protocol that must be followed if the employee becomes aware of any sexual abuse of a person with an intellectual disability or a person with a developmental disability that is admitted to the facility; and***

***2. Education to each person with an intellectual disability or person with a developmental disability that is admitted to the facility which:***

***(a) Is appropriate with regard to the level of the person's intellectual and developmental abilities; and***

***(b) Explains what sexual abuse is and how to report sexual abuse.***

**Sec. 27.** NRS 441A.320 is hereby amended to read as follows:

441A.320 1. If the alleged victim or a witness to a crime alleges that the crime involved the sexual penetration of the victim's body, the health authority shall perform the tests set forth in subsection 2 ~~as~~ ~~is~~

~~(a) As~~ soon as practicable after the arrest of the person alleged to have committed the crime, but not later than ~~48-96~~ 72 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than ~~48-96~~ 72 hours after the petition is filed with the



juvenile court alleging that the child is delinquent for committing such an act

~~and~~

~~(b) In all cases, before the person alleged to have committed the crime is released from custody.~~

2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether the person or, if the person is a child, the parent or guardian of the child consents to providing the specimen. The agency that has custody of the arrested person shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.

3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.

4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection 2 or 3 to:

(a) The victim or to the victim's parent or guardian if the victim is a child; and

(b) The arrested person and, if the person is a child, to the parent or guardian of the child.

5. If the health authority determines, from the results of a test performed pursuant to subsection 2 or 3, that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him or her with:

(a) An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed;

(b) Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines the victim may have been exposed; and

(c) A referral for health care and other assistance,

↪ as appropriate.

6. If the court in:

(a) A criminal proceeding determines that a person has committed a crime; or

(b) A proceeding conducted pursuant to title 5 of NRS determines that a child has committed an act which, if committed by an adult, would have constituted a crime,

↪ involving the sexual penetration of a victim's body, the court shall, upon application by the health authority, order that child or other person to pay any expenses incurred in carrying out this section with regard to that child or other person and that victim.

7. The Board shall adopt regulations identifying, for the purposes of this section, sexually transmitted diseases which are commonly contracted.

8. As used in this section:

(a) “Sexual assault” means a violation of NRS 200.366.

(b) “Sexual penetration” has the meaning ascribed to it in NRS 200.364.

~~Sec. 27.3. 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall conduct a study of the laws relating to the crime of prostitution or the solicitation of prostitution.~~

~~2. In conducting the study, the Commission shall:~~

~~(a) Review existing state laws relating to the crime of prostitution or the solicitation of prostitution and consider potential changes to the laws to treat prostitutes as victims, including, without limitation, potentially changing the laws to exempt persons under 25 years of age from arrest and punishment.~~

~~(b) Research and consider various procedures for effectively providing services to persons identified as prostitutes.~~

~~(c) Review the effects of the provisions of this act that require a peace officer to provide to a prostitute information regarding and opportunities for connecting with social service agencies that may provide assistance to the prostitute.~~

~~(d) Consult with and solicit input from:~~

~~(1) Representatives of the Office of the Attorney General;~~

~~(2) Representatives of law enforcement agencies and juvenile justice agencies;~~

~~(3) Representatives of the Department of Health and Human Services and other social service agencies;~~

~~(4) Persons who are health care providers, including, without limitation, psychologists and other counselors who have experience treating victims and survivors of prostitution;~~

~~(5) Persons who are survivors of prostitution who engaged in prostitution as adults;~~

~~(6) Representatives of organizations that assist victims and survivors of prostitution, sex trafficking and similar crimes, including, without limitation, advocates for such victims and survivors;~~

~~(7) Representatives with experience or an interest in and knowledge of the problems faced by victims and survivors of prostitution.~~

~~3. The Commission shall submit a report of the results of its study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Nevada Legislature.] (Deleted by amendment.)~~

~~Sec. 28. [The amendatory provisions of:~~

~~1. Section 1 of this act apply to a plaintiff who, before October 1, 2019, was sexually abused while less than 18 years of age or sexually assaulted if the applicable statute of limitations has not yet expired on October 1, 2019.~~

~~2. Section 6 of this act apply to a person who:~~

~~(a) Committed a violation of NRS 200.366, 200.368, 200.710, 200.720, 200.725, 200.727, 200.730, 201.180, 201.230, 201.540, 201.550, 201.555 or 201.560 before October 1, 2019, if the applicable statute of limitations has commenced but has not yet expired on October 1, 2019.~~

~~(b) Commits a violation of NRS 200.366, 200.368, 200.710, 200.720, 200.725, 200.727, 200.730, 201.180, 201.230, 201.540, 201.550, 201.555 or 201.560 on or after October 1, 2019.~~

~~3. Section 11 of this act apply to an offense committed on or after October 1, 2019.~~ **(Deleted by amendment.)**

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 775.

AN ACT relating to public safety; **authorizing the Director of the Department of Public Safety to designate certain vehicles of the Department as authorized emergency vehicles;** authorizing a tow car and certain other vehicles owned by contractors of the Department of Transportation to display nonflashing blue lights in certain circumstances; removing certain provisions regarding notification of nonconsensual tows in certain circumstances; authorizing certain agreements and payments between property owners and tow car operators in certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Existing law designates certain vehicles as authorized emergency vehicles, including those vehicles publicly owned and operated in the performance of the duty of various law enforcement agencies, fire departments and other enforcement or lifesaving agencies. (NRS 484A.480) Section 1 of this bill adds to the list of authorized emergency vehicles any vehicle owned and operated by the Department of Public Safety that has been so designated by the Director of the Department.**

Under existing law, a tow car used to tow disabled vehicles is required to be equipped with flashing amber warning lights which must be displayed to warn approaching drivers under certain circumstances. (NRS 484D.475) The driver of a vehicle approaching any traffic incident where such flashing amber warning lights are being displayed must take certain precautions for the purposes of traffic safety. (NRS 484B.607) **Section 3** of this bill authorizes a tow car to also be equipped with rear facing lamps that emit nonflashing blue light. Such lamps may only be displayed at the scene of a traffic incident or when the tow car is otherwise preparing to tow a disabled vehicle. **Section 2**

of this bill requires that any such lamps must comply with standards approved by the Department of Motor Vehicles. (NRS 484B.748) **Section 2.5** of this bill similarly authorizes certain vehicles owned by persons who contract with the Department of Transportation to aid motorists or mitigate traffic incidents to be equipped with rear facing lamps that emit nonflashing blue light. **Section ~~##~~ 1.5** of this bill adds the display of nonflashing blue lights to the circumstances under which a driver approaching a traffic incident must take certain precautions.

Existing law requires the owner or person in lawful possession of any real property to orally notify local law enforcement if the owner or person in lawful possession has directed the towing of a vehicle from the property without the consent of the owner of the vehicle. (NRS 487.038) **Section 4** of this bill provides that such notification is only required if the tow operator has not already made such a notification. Existing law also provides that the costs of towing and storage of such a vehicle must be borne by the owner of the vehicle. **Section 4** provides that such costs include, if applicable, the disposition of the vehicle. **Section 4** further provides that, if the tow operator and the owner or person in lawful possession of the property agree that the vehicle is likely to be ultimately disposed of as an abandoned vehicle and that the estimated disposition value of the vehicle to be towed is less than the estimated cost for towing, storage and disposition of the vehicle, the tow operator and owner or person in lawful possession may enter into an agreement whereby the owner or person in lawful possession makes a voluntary payment to the tow operator. Such a payment does not reduce the amount of the costs incurred that are to be borne by the owner of the vehicle, and may not be a condition for the towing of the vehicle.

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

**Section 1. NRS 484A.480 is hereby amended to read as follows:**

484A.480 1. Except as otherwise provided in NRS 484A.490, authorized emergency vehicles are vehicles publicly owned and operated in the performance of the duty of:

- (a) A police or fire department.
- (b) A sheriff's office.
- (c) The **Department of Public Safety, for vehicles that are:**

**(1) Operated in the performance of the duty of the** Capitol Police Division, the Investigation Division, the Nevada Highway Patrol Division, the State Fire Marshal Division, the Training Division and the Office of the Director of the Department of Public Safety ~~##~~; **or**

**(2) Designated an authorized emergency vehicle by the Director of the Department of Public Safety.**

(d) The Division of Forestry of the State Department of Conservation and Natural Resources in responding to a fire.

(e) The Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel in the Department of Motor Vehicles.

(f) A public ambulance agency.

(g) A public lifeguard or lifesaving agency.

2. A vehicle publicly maintained in whole or in part by the State, or by a city or county, and privately owned and operated by a regularly salaried member of a police department, sheriff's office or traffic law enforcement department, is an authorized emergency vehicle if:

(a) The vehicle has a permit, pursuant to NRS 484A.490, from the Department of Public Safety;

(b) The person operates the vehicle in responding to emergency calls or fire alarms, or at the request of the Nevada Highway Patrol or in the pursuit of actual or suspected violators of the law; and

(c) The State, county or city does not furnish a publicly owned vehicle for the purposes stated in paragraph (b).

3. Every authorized emergency vehicle must be equipped with at least one flashing red warning lamp visible from the front and a siren for use as provided in chapters 484A to 484E, inclusive, of NRS, which lamp and siren must be in compliance with standards approved by the Department of Public Safety. In addition, an authorized emergency vehicle may display revolving, flashing or steady red or blue warning lights to the front, sides or rear of the vehicle.

4. An authorized emergency vehicle may be equipped with a system or device that causes the upper-beam headlamps of the vehicle to continue to flash alternately while the system or device is activated. The driver of a vehicle that is so equipped may use the system or device when responding to an emergency call or fire alarm, while escorting a funeral procession, or when in pursuit of an actual or suspected violator of the law. As used in this subsection, "upper-beam headlamp" means a headlamp or that part of a headlamp which projects a distribution of light or composite beam meeting the requirements of subsection 1 of NRS 484D.210.

5. Except as otherwise provided in subsection 4, a person shall not operate a motor vehicle with any system or device that causes the headlamps of the vehicle to continue to flash alternately or simultaneously while the system or device is activated. This subsection does not prohibit the operation of a motorcycle equipped with any system or device that modulates the intensity of light produced by the headlamp of the motorcycle, if the system or device is used only during daylight hours and conforms to the requirements of 49 C.F.R. § 571.108.

6. A person shall not operate a vehicle with any lamp or device displaying a red light visible from directly in front of the center of the vehicle except an authorized emergency vehicle, a school bus or an official vehicle of a regulatory agency.

7. A person shall not operate a vehicle with any lamp or device displaying a blue light, except a motorcycle pursuant to NRS 486.261 or an authorized emergency vehicle.

~~Section 1.1~~ **Sec. 1.5.** NRS 484B.607 is hereby amended to read as follows:

484B.607 1. Upon approaching any traffic incident, the driver of the approaching vehicle shall, in the absence of other direction given by a law enforcement officer:

- (a) Decrease the speed of the vehicle to a speed that is reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484B.600;
- (b) Proceed with caution;
- (c) Be prepared to stop; and
- (d) If possible, drive in a lane that is not adjacent to the lane or lanes where the traffic incident is located unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.

2. A person who violates subsection 1 is guilty of a misdemeanor.

3. As used in this section, “traffic incident” means any vehicle, person, condition or other traffic hazard which is located on or near a roadway and which poses a danger to the flow of traffic or to a person involved in, responding to or assisting with the traffic hazard. The term includes, without limitation:

(a) An authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484A.480;

(b) A tow car which is stopped and is making use of flashing amber warning lights meeting the requirements of NRS 484B.748 ~~or~~ **or lamps that emit nonflashing blue light meeting the requirements of NRS 484D.475, or both;**

(c) An authorized vehicle used by the Department of Transportation which is stopped or moving at a speed slower than the normal flow of traffic and which is making use of flashing amber warning lights meeting the requirements of subsection 1 of NRS 484D.185 or lamps that emit nonflashing blue light meeting the requirements of NRS 484D.200;

(d) ***A vehicle, owned or operated by a person who contracts with the Department of Transportation to provide aid to motorists or to mitigate traffic incidents, which is stopped or moving at a speed slower than the normal flow of traffic and making use of lamps that emit nonflashing blue light meeting the requirements of NRS 484D.200;***

(e) A public utility vehicle which is stopped or moving at a speed slower than the normal flow of traffic and is making use of flashing amber warning lights meeting the requirements of NRS 484D.195;

~~(e)~~ (f) An authorized vehicle of a local governmental agency which is stopped or moving at a speed slower than the normal flow of traffic and is making use of flashing amber warning lights meeting the requirements of NRS 484D.185;

~~[(g)]~~ (g) Any vehicle which is stopped or moving at a speed slower than the normal flow of traffic and is making use of flashing amber warning lights meeting the requirements of NRS 484D.185;

~~[(g)]~~ (h) A crash scene;

~~[(h)]~~ (i) A stalled vehicle;

~~[(i)]~~ (j) Debris on the roadway; or

~~[(j)]~~ (k) A person who is out of his or her vehicle attending to a repair of the vehicle.

**Sec. 2.** NRS 484B.748 is hereby amended to read as follows:

484B.748 1. A tow car which is equipped with flashing amber warning lights pursuant to NRS 484D.185 may display flashing amber warning lights to the front, sides or rear of the tow car when at the scene of a traffic hazard.

2. *A tow car which is equipped with lamps that emit nonflashing blue light pursuant to NRS 484D.475 may display nonflashing blue light to the rear of the tow car when at the scene of a traffic hazard.*

3. Any flashing amber warning light *or lamps that emit nonflashing blue light* used pursuant to this section must comply with the standards approved by the Department.

**Sec. 2.5.** NRS 484D.200 is hereby amended to read as follows:

484D.200 1. An authorized vehicle used by the Department of Transportation for the construction, maintenance or repair of highways *or a vehicle owned by a person who contracts with the Department to aid motorists or mitigate traffic incidents* may be equipped with lamps located toward the rear of the vehicle that emit nonflashing blue light which may be used:

~~[(a)]~~ (a) For vehicles that perform construction, maintenance or repair of highways, including, without limitation, vehicles used for the removal of snow, when the vehicle is engaged in such construction, maintenance or repair;

~~and~~

~~—2—~~ (b) For ~~[(a)]~~ other authorized vehicles of the Department of Transportation used in the construction, maintenance or repair of highways:

~~[(a)]~~ (1) In an area designated as a temporary traffic control zone in which construction, maintenance or repair of a highway is conducted; and

~~[(b)]~~ (2) At a time when the workers who are performing the construction, maintenance or repair of the highway are present ~~[(1)]~~; *and*

(c) *For a vehicle owned by a person who contracts with the Department to aid motorists or mitigate traffic incidents, at a time when the vehicles or the workers who are performing the aid or mitigation are present.*

2. *As used in this section, “traffic incident” has the meaning ascribed to it in NRS 484B.607.*

**Sec. 3.** NRS 484D.475 is hereby amended to read as follows:

484D.475 1. Tow cars used to tow disabled vehicles must be equipped with:

~~[(a)]~~ (a) Flashing amber warning lamps which must be displayed as may be advisable to warn approaching drivers during the period of preparation at the

location from which a disabled vehicle is to be towed. A flashing amber warning lamp upon a tow car may be displayed to the rear when the tow car is towing a vehicle and moving at a speed slower than the normal flow of traffic.

~~{2-}~~ (b) At least two red flares, two red lanterns or two warning lights or reflectors which may be used in conjunction with the flashing amber warning lamps **or lamps that emit nonflashing blue light, or both**, or in place of those lamps if the lamps are obstructed or damaged at the location from which a disabled vehicle is to be towed.

**2. A tow car used to tow disabled vehicles may be equipped with rear facing lamps that emit nonflashing blue light. Lamps that emit nonflashing blue light to the rear of the tow car may only be displayed when the tow car is at the scene of a traffic hazard or during the period of preparation at the location from which a disabled vehicle is to be towed, and must not be displayed when the tow car is being operated on a highway.**

**Sec. 4.** NRS 487.038 is hereby amended to read as follows:

487.038 1. Except as otherwise provided in subsections 3 and 4, the owner or person in lawful possession of any real property may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard if:

(a) A sign is displayed in plain view on the property declaring public parking to be prohibited or restricted in a certain manner; and

(b) The sign shows the telephone number of the police department or sheriff's office.

~~{Oral}~~ **2. Unless notice has been provided pursuant to NRS 706.4477, oral** notice must be given to the police department or sheriff's office, whichever is appropriate, indicating:

(a) The time the vehicle was removed;

(b) The location from which the vehicle was removed; and

(c) The location to which the vehicle was taken.

3. Any vehicle which is parked in a space designated for persons with disabilities and is not properly marked for such parking may be removed if notice is given to the police department or sheriff's office pursuant to subsection 2, whether or not a sign is displayed pursuant to subsection 1.

4. The owner or person in lawful possession of residential real property upon which a single-family dwelling is located may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1.

5. All costs incurred under the provisions of this section for **the** towing, ~~and~~ storage **and disposition of the vehicle, as applicable**, must be borne by the owner of the vehicle, as that term is defined in NRS 484A.150.



6. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of real property may have by virtue of other provisions of the law authorizing the removal of a vehicle parked on that property.

*7. If the owner or person in lawful possession of real property and the tow operator agree that the vehicle is likely to be ultimately disposed of as an abandoned vehicle and that the estimated disposition value of a vehicle to be towed pursuant to this section is less than the estimated cost for the towing, storage and disposal of the vehicle, the owner or person in lawful possession of real property and the tow operator may enter into an agreement whereby the owner or person in lawful possession of real property makes a voluntary payment to the tow operator. Such a payment:*

*(a) Does not reduce the costs incurred by the owner of the vehicle pursuant to subsection 5.*

*(b) May not be a condition for the towing of the vehicle.*

**Sec. 5.** This act becomes effective on July 1, 2019.

Assemblywoman Monroe-Moreno moved the adoption of the amendment.

Remarks by Assemblywoman Monroe-Moreno.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 786.

SENATOR DENIS

**JOINT SPONSOR: ASSEMBLYWOMAN KRASNER**

AN ACT relating to education; requiring each public and private school to provide certain information to a pupil or the parent or legal guardian of a pupil before providing technology to a pupil or allowing a pupil to use a school service; revising provisions relating to school service providers; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law generally controls the manner in which a school service provider may use the personally identifiable information of a pupil and prohibits a school service provider from engaging in targeted advertising. (NRS 388.292) "School service provider" is defined in existing law as a provider of certain Internet services, online services or mobile applications. (NRS 388.283, 388.284) **Section 1** of this bill requires a public school, including a charter school and a university school for profoundly gifted pupils, to post certain information on the Internet website of the school before a pupil uses a school service of a school service provider. Such information must include a description of the laws governing school service providers, a list of the school service providers for the school, confirmation that each school service provider has a plan for the security of data established by the school

service provider, any other actions taken by the public school, the school district, or the applicable governing body to protect the data of the pupils and the manner in which a person may report suspicious activity related to the use of a school service. Each school must also communicate the manner in which to locate the information at the beginning of each school year.

**Section 2** of this bill revises the prohibition on targeted advertising by a school service provider to prohibit the school service provider from engaging in targeted advertising within its school service or on any other Internet website, online service or mobile application if the targeted advertising is based upon information gathered from its school service. **Section 2** also authorizes a school service provider to use the personally identifiable information of a pupil to perform certain research which is required or authorized by federal or state law. **Section 3** of this bill authorizes a school service provider to use aggregated, deidentified information derived from the personally identifiable information of pupils to develop and improve the products of the school service provider.

Existing law requires a school service provider to establish a plan for the security of any data concerning pupils that is collected or maintained by the school service provider. (NRS 388.293) **Section 2.5** of this bill requires the school service provider to inform a school district, charter school or university school for profoundly gifted pupils or a private school if there is a breach of the plan for the security of the data ~~or~~ **or any breach of the data itself.** **Section 2.5** further requires a school that receives such notice to provide the notice to the pupils and the parents and legal guardians of pupils who are less than 18 years of age.

**Sections 5-10** of this bill establish similar provisions for private schools.

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

**Section 1.** Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *Before a public school, including, without limitation, a charter school and a university school for profoundly gifted pupils, allows a pupil to use any school service or provides a pupil with any technology, the public school must post on the Internet website of the public school information that:***

**(a) *Summarizes the laws governing school service providers set forth in this section and NRS 388.281 to 388.296, inclusive;***

**(b) *Lists each school service provider for the school;***

**(c) *Confirms that each such school service provider for the school has created a plan for the security of any data concerning pupils, including, without limitation, covered information and personally identifiable information pursuant to NRS 388.293 and informs about the circumstances under which notification will be provided if a breach is discovered;***

**(d) *Describes any other actions taken by the public school, the school district or the governing body of the charter school or university school for***

*profoundly gifted pupils, as applicable, to protect the security of any data collected by a school service provider, including, without limitation, covered information and personally identifiable information, concerning pupils; and*

*(e) Describes the manner in which a pupil or the parent or legal guardian of a pupil may report any suspicious activity relating to the use of a school service by a pupil.*

*2. At the beginning of each school year, each public school, including, without limitation, a charter school and a university school for profoundly gifted pupils, shall communicate to the pupils enrolled at the school and the parents and legal guardians of such pupils the availability of the information described in subsection 1 and the manner in which to locate the information.*

*3. As used in this section:*

*(a) "Covered information" means the personally identifiable information of a pupil or any information that is linked to the personally identifiable information of a pupil which is:*

*(1) Created by or provided to a school service provider by a pupil or the parent or legal guardian of a pupil through the use of a school service;*

*(2) Created by or provided to a school service provider by an employee of a public school, a school district or the governing body of a charter school; or*

*(3) Gathered by a school service provider from any other source and associated with the identity of a pupil.*

*(b) "Personally identifiable information" has the meaning ascribed to it in 34 C.F.R. § 99.3.*

*(c) "School service" has the meaning ascribed to it in NRS 388.283.*

*(d) "School service provider" has the meaning ascribed to it in NRS 388.284.*

**Sec. 2.** NRS 388.292 is hereby amended to read as follows:

388.292 1. Except as otherwise provided in subsections 2 and 5, a school service provider may collect, use, allow access to or transfer personally identifiable information concerning a pupil only:

(a) For purposes inherent to the use of a school service by a teacher in a classroom or for the purposes authorized by the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable, so long as it is authorized by federal and state law;

(b) If required by federal or state law;

(c) In response to a subpoena issued by a court of competent jurisdiction;

(d) To protect the safety of a user of the school service; or

(e) With the consent of any person required in a policy of the school district, charter school or university school for profoundly gifted pupils, as applicable, or, if none, with the consent of the pupil, if the pupil is at least 18 years of age, or the parent or legal guardian of the pupil if the pupil is less than 18 years of age.

2. A school service provider may transfer personally identifiable information concerning a pupil to a third-party service provider if the school service provider provides notice to any person designated in a policy of the school district, charter school or university school for profoundly gifted pupils, as applicable, to receive such notice or, if none, to the pupil, if the pupil is at least 18 years of age, or the parent or guardian of the pupil and:

(a) Contractually prohibits the third-party service provider from using any such information for any purpose other than providing the contracted school services to, or on behalf of, the school service provider;

(b) Prohibits the third-party service provider from disclosing any personally identifiable information concerning a pupil unless the disclosure is authorized pursuant to subsection 1; and

(c) Requires the third-party service provider to comply with the requirements of NRS 388.281 to 388.296, inclusive ~~†~~, **and section 1 of this act.**

3. A school service provider shall delete any personally identifiable information concerning a pupil that is collected or maintained by the school service provider and that is under the control of the school service provider within a reasonable time not to exceed 30 days after receiving a request from the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable. The board of trustees or the governing body, as applicable, must have a policy which allows a pupil who is at least 18 years of age or the parent or legal guardian of any pupil to review such information and request that such information about the pupil be deleted. The school service provider shall delete such information upon the request of the parent or legal guardian of a pupil if no such policy exists.

4. Any agreement entered into by a school service provider that provides for the disclosure of personally identifiable information must require that the person or governmental entity to whom the information will be disclosed abide by the requirements imposed pursuant to this section.

5. A school service provider shall not:

(a) Use personally identifiable information to engage in targeted advertising ~~†~~ **within the school service or on any other Internet website, online service or mobile application if the targeted advertising is based upon any information acquired from use of the school service.**

(b) Except as otherwise provided in this paragraph, sell personally identifiable information concerning a pupil. A school service provider may transfer personally identifiable information concerning pupils to an entity that purchases, merges with or otherwise acquires the school service and the acquiring entity becomes subject to the requirements of NRS 388.281 to 388.296, inclusive, **and section 1 of this act**, and any contractual provisions between the school service provider and the board of trustees of a school district, the governing body of a charter school or the governing body of a

university school for profoundly gifted pupils, as applicable, governing such information.

(c) Use personally identifiable information concerning a pupil to create a profile of the pupil for any purpose not related to the instruction of the pupil provided by the school without the consent of the appropriate person described in paragraph (e) of subsection 1.

(d) Use personally identifiable information concerning a pupil in a manner that is inconsistent with any contract governing the activities of the school service provider for the school service in effect at the time the information is collected or in a manner that violates any of the provisions of NRS 388.281 to 388.296, inclusive ~~†~~, **and section 1 of this act.**

(e) Knowingly retain, without the consent of the appropriate person described in paragraph (e) of subsection 1, personally identifiable information concerning a pupil beyond the period authorized by the contract governing the activities of the school service provider.

6. This section does not prohibit the use of personally identifiable information concerning a pupil that is collected or maintained by a school service provider for the purposes of:

- (a) Adaptive learning or providing personalized or customized education;
- (b) Maintaining or improving the school service;
- (c) Recommending additional content or services within a school service;
- (d) Responding to a request for information by a pupil;
- (e) Soliciting feedback regarding a school service; ~~†~~
- (f) **Performing research which:**

*(1) Is required by federal or state law; or*

*(2) Is authorized by federal or state law, is performed under the direction of a public school, school district or the Department and does not use any personally identifiable information concerning a pupil for any purpose relating to advertising or creating a profile of the pupil for any purpose not related to the instruction of the pupil; or*

(g) Allowing a pupil who is at least 18 years of age or the parent or legal guardian of any pupil to download, transfer, or otherwise maintain data concerning a pupil.

7. A school service provider that violates the provisions of this section is subject to a civil penalty in an amount not to exceed \$5,000 per violation. The Attorney General may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

**Sec. 2.5.** NRS 388.293 is hereby amended to read as follows:

388.293 1. A school service provider shall establish and carry out a detailed plan for the security of any data concerning pupils that is collected or maintained by the school service provider. The plan must include, without limitation:

(a) Procedures for protecting the security, privacy, confidentiality and integrity of personally identifiable information concerning a pupil; and

(b) Appropriate administrative, technological and physical safeguards to ensure the security of data concerning pupils.

2. A school service provider shall ensure that any successor entity understands that it is subject to the provisions of NRS 388.281 to 388.296, inclusive, **and section 1 of this act** and agrees to abide by all privacy and security commitments related to personally identifiable information concerning a pupil collected and maintained by the school service provider before allowing a successor entity to access such personally identifiable information.

3. ***A school service provider shall provide notice to a school district, charter school or university school for profoundly gifted pupils, as applicable, or a private school pursuant to section 10 of this act, of any breach of the plan for the security of any data concerning pupils or any breach of such data and any actions taken or being taken by the school service provider to address the breach. The notice must be provided as soon as practicable and without unreasonable delay.***

4. ***A school district, charter school, university school for profoundly gifted pupils or private school that receives a notice pursuant to subsection 3, shall provide the notice to each pupil affected by the breach or, if a pupil is less than 18 years of age, the parent or legal guardian of the pupil. The notice must be provided as soon as practicable and without unreasonable delay.***

**Sec. 3.** NRS 388.295 is hereby amended to read as follows:

388.295 A school service provider may use and disclose information derived from personally identifiable information concerning a pupil to demonstrate the effectiveness of the products or services of the school service provider, including, without limitation, for use in advertising or marketing regarding the school service, **and to develop and improve a school service or any other Internet website, online service or mobile application of the school service provider** so long as the information is aggregated or is presented in a manner which does not disclose the identity of the pupil about whom the information relates.

**Sec. 4.** Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 10, inclusive, of this act.

**Sec. 5.** ***As used in sections 5 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

**Sec. 6.** ***“Covered information” means the personally identifiable information of a pupil or any information that is linked to the personally identifiable information of a pupil which is:***

1. ***Created by or provided to a school service provider by a pupil or the parent or legal guardian of a pupil through the use of a school service;***
2. ***Created by or provided to a school service provider by an employee of a private school or the governing body of a private school; or***

3. *Gathered by a school service provider from any other source and associated with the identity of a pupil.*

Sec. 7. *“Personally identifiable information” has the meaning ascribed to it in 34 C.F.R. § 99.3.*

Sec. 8. 1. *“School service” means an Internet website, online service or mobile application that:*

(a) *Collects or maintains personally identifiable information concerning a pupil;*

(b) *Is used primarily for educational purposes; and*

(c) *Is designed and marketed for use in private schools and is used at the direction of teachers and other educational personnel.*

2. *The term does not include:*

(a) *An Internet website, online service or mobile application that is designed or marketed for use by a general audience, even if the school service is also marketed to private schools;*

(b) *An internal database, system or program maintained or operated by a private school or the governing body of a private school;*

(c) *A school service for which a school service provider has:*

(1) *Been designated by the governing body of a private school as a school official pursuant to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g;*

(2) *Entered into a contract with the governing body of a private school; and*

(3) *Agreed to comply with and be subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, relating to personally identifiable information; or*

(d) *Any instructional programs purchased by the governing body of a private school.*

Sec. 9. *“School service provider” means a person that operates a school service, to the extent the provider is operating in that capacity.*

Sec. 10. 1. *Before a private school allows a pupil to use any school service or provides a pupil with any technology, the private school must post on the Internet website of the school information that:*

(a) *Summarizes the laws governing school service providers;*

(b) *Lists each school service provider for the private school and the plan for the security of any data concerning pupils, including, without limitation, covered information and personally identifiable information, that is established by the school service provider;*

(c) *Describes any other actions taken by the private school to protect the security of any data collected by a school service provider, including, without limitation, covered information and personally identifiable information, concerning pupils; and*

(d) *Describes the manner in which a pupil or the parent or legal guardian of a pupil may report any suspicious activity relating to the use of a school service by a pupil.*

*2. At the beginning of each school year, each private school shall communicate to the pupils enrolled at the school and the parents and legal guardians of such pupils the availability of the information described in subsection 1 and the manner in which to locate the information.*

**Sec. 11.** This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2020, for all other purposes.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 407.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 712.

AN ACT relating to professions; revising provisions governing public land survey corners; revising provisions governing professional engineers and professional land surveyors; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law governs the practice of professional engineering and the practice of land surveying. (Chapter 625 of NRS) Existing law authorizes the State Board of Professional Engineers and Land Surveyors to waive the educational requirements for licensure and issue a license as a professional engineer or professional land surveyor under certain circumstances to applicants who took the examination for licensure before August 1, 2014. (NRS 625.203, 625.285) **Section 11** of this bill eliminates that obsolete authority and **sections 1 and 2** of this bill make conforming changes. Existing law specifies educational or experience requirements for eligibility for certification of an applicant as a land surveyor intern or as an engineer intern. (NRS 625.386) **Section 3** of this bill eliminates the experience requirements, thereby making an applicant eligible for certification only if the applicant meets the educational requirements.

With certain exceptions, under existing law: (1) a firm, partnership, corporation or other person engaged in or offering to engage in the practice of engineering or land surveying is required to employ on a full-time basis at least one professional engineer or professional land surveyor, as applicable, at each place of business where the engineering or land surveying work is or will be performed; and (2) all engineering or land-surveying work done at such a place of business must be performed under the professional engineer or land surveyor who has been placed in responsible charge of the work and is employed full-time at that place of business. (NRS 625.407) **Section 4** of this



bill eliminates the requirement that an engineering or land surveying business employ a professional engineer or land surveyor, as applicable, at each of its places of business and instead only requires that the business employ at least one such applicable professional for the entire business. As a result of this change, **section 4** also eliminates the requirement that the work at each place of business of such a business be performed under a professional engineer or land surveyor that is employed at that place of business, thereby allowing for such supervision of work to occur remotely.

~~Under existing law, a person does not have a privilege to refuse to disclose information in court proceedings, except as required by the United States Constitution or the Nevada Constitution or as provided by a specific statute. (NRS 47.020, 49.015) With certain exceptions, existing law makes information obtained during the course of an investigation of a person regulated by the Board confidential. (NRS 625.425) Section 5 of this bill additionally makes that information privileged, which gives the Board the authority to refuse to disclose the information in court proceedings. This privilege is the same privilege that the Nevada State Board of Accountancy is authorized to exercise under existing law with respect to information in its investigative files relating to accountants. (NRS 628.418)~~

Existing law authorizes the Board to take various types of disciplinary actions against a licensee who violates the provisions governing the practice of professional engineering or land surveying, as applicable. (NRS 625.460) In addition, if any person is engaging in or about to engage in any act or practice that violates those provisions, the Board is authorized under existing law to apply to a district court for the issuance of an injunction or restraining order against that person. **Sections 6 and 7** of this bill authorize the Board to issue an order to cease and desist against a licensee as disciplinary action or against a firm, corporation, partnership or other person who is engaging in or about to engage in violations of the provisions governing the practice of professional engineering or land surveying.

Under existing law, the Board is authorized to adopt regulations defining the scope of each discipline of professional engineering for which licensure is required. (NRS 625.175; NAC 625.220) With certain exceptions, existing law makes it unlawful for a person who is not properly licensed or who is not exempt from the licensing requirements to use the term “engineer,” “engineering” or “engineered,” or any combination thereof, as a professional representation or means of advantage without disclosing that the person is not qualified, registered or licensed to practice professional engineering in Nevada. (NRS 625.520) **Section 7** of this bill makes the use of those terms unlawful by the unlicensed person only when used in connection with a specific discipline of engineering.

Under existing law, it is the declared policy of the State to protect and perpetuate public land survey corners, which are used for legal descriptions of land. (NRS 329.020) Additionally, with certain exceptions, existing law requires a surveyor to record a public land survey corner. (NRS 329.140-

329.190) **Section 8** of this bill expands the policy declaration to other types of corners. **Sections 9 and 10** of this bill make conforming changes. **Section 9** of this bill also places certain restrictions on the use of a record of such corners.

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

**Section 1.** NRS 625.183 is hereby amended to read as follows:

625.183 1. A person who:

(a) Is 21 years of age or older; and

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States,

↪ may apply to the Board, in accordance with the provisions of this chapter and any regulations adopted by the Board, for licensure as a professional engineer.

2. An applicant for licensure as a professional engineer must:

(a) Be of good character and reputation; and

(b) Pass the examination on the:

(1) Fundamentals of engineering or receive a waiver of that requirement;

and

(2) Principles and practices of engineering,

↪ pursuant to NRS 625.193.

3. ~~Except as otherwise provided in NRS 625.203, an~~ **An** applicant for licensure as a professional engineer is not qualified for licensure unless the applicant is a graduate of an engineering curriculum of 4 years or more that is approved by the Board and has a record of 4 years or more of active experience in engineering which is satisfactory to the Board and which indicates that the applicant is competent to be placed in responsible charge of engineering work. An applicant who is eligible to take the examination on the principles and practices of engineering pursuant to subsection 2 of NRS 625.193 may take the examination on the principles and practices of engineering before the applicant meets the active experience requirements for licensure set forth in this subsection.

4. To determine whether an applicant for licensure as a professional engineer has an adequate record of active experience pursuant to subsection 3:

(a) Graduation from a college or university in a discipline of engineering with a master's or doctoral degree is equivalent to 2 years of active experience, except that, in the aggregate, not more than 2 years of active experience may be satisfied by graduation from a college or university with such degrees, regardless of the number of degrees earned.

(b) Two of the 4 years of active experience must have been completed by working under the direct supervision of a professional engineer who is licensed in the discipline in which the applicant is applying for licensure, unless that requirement is waived by the Board.

(c) The execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of that work as a foreman or superintendent, is not equivalent to active experience in engineering.

5. A person who is not working in the field of engineering when applying for licensure is eligible for licensure as a professional engineer if the person complies with the requirements for licensure prescribed in this chapter.

**Sec. 2.** NRS 625.270 is hereby amended to read as follows:

625.270 1. A person who:

- (a) Is 21 years of age or older; and
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States,

↪ may apply to the Board, in accordance with the provisions of this chapter and any regulations adopted by the Board, for licensure as a professional land surveyor.

2. An applicant for licensure as a professional land surveyor must:

- (a) Be of good character and reputation; and
- (b) Pass the examination on the:
  - (1) Fundamentals of land surveying or receive a waiver of that requirement; and
  - (2) Principles and practices of land surveying,

↪ pursuant to NRS 625.280.

3. ~~{Except as otherwise provided in NRS 625.285, an}~~ **An** applicant for licensure as a professional land surveyor may not take the examination on the principles and practices of land surveying, unless the applicant is a graduate of a land-surveying curriculum of 4 years or more that is approved by the Board and has a record of 4 years or more of active experience in land surveying that is satisfactory to the Board and indicates that the applicant is competent to be placed in responsible charge of land-surveying work.

4. To determine whether an applicant for licensure as a professional land surveyor has an adequate record of active experience pursuant to subsection 3:

(a) Two of the 4 years of active experience must have been completed by working under the direct supervision of a professional land surveyor, unless that requirement is waived by the Board.

(b) The execution, as a contractor, of work designed by a professional land surveyor, or the supervision of the construction of that work as a foreman or superintendent, is not equivalent to active experience in land surveying.

5. A person who is not working in the field of land surveying when applying for licensure is eligible for licensure as a professional land surveyor if the person complies with the requirements for licensure prescribed in this chapter.

**Sec. 3.** NRS 625.386 is hereby amended to read as follows:

625.386 1. To be eligible for certification as a land surveyor intern, an applicant must ~~†~~

~~(a) Be~~ **be** a graduate of or in the final year of a land-surveying or engineering curriculum of 4 years or more that has been approved by the Board

and have passed the examination on the fundamentals of land surveying provided for in NRS 625.280. ~~†; or~~

~~—(b) Have had 4 years or more of experience in land surveying work that is satisfactory to the Board and have passed the examination on the fundamentals of land surveying provided for in NRS 625.280.†~~

2. To be eligible for certification as an engineer intern, an applicant must ~~†~~

~~—(a) Be† be~~ a graduate of or in the final year of an engineering curriculum of 4 years or more that has been approved by the Board and have passed the examination on the fundamentals of engineering provided for in NRS 625.193. ~~†; or~~

~~—(b) Have had 4 years or more of experience in engineering work that is satisfactory to the Board and have passed the examination on the fundamentals of engineering provided for in NRS 625.193.†~~

**Sec. 4.** NRS 625.407 is hereby amended to read as follows:

625.407 1. Except as otherwise provided in this section:

(a) A firm, partnership, corporation or other person engaged in or offering to engage in the practice of engineering or land surveying in this state shall employ full-time at least one professional engineer or professional land surveyor, respectively; ~~†, at each place of business where the work is or will be performed.†~~ and

(b) All engineering or land-surveying work done ~~†at a place of business†~~ must be performed under a professional engineer or professional land surveyor, respectively, who has been placed in responsible charge of the work and who is employed full-time ~~†at†~~ by that ~~†particular place of†~~ business.

2. If the only professional engineer or professional land surveyor employed full-time ~~†at†~~ by a ~~†place of†~~ business ~~†where†~~ **that performs** engineering or land-surveying work ~~†is performed†~~ ceases to be employed ~~†at that place of†~~ **by the** business ~~†, during the 30 days next following his or her departure.†~~

~~—(a) The place of business is not required to†, **the business shall, within 30 days after the employment ceases,** employ **another** full-time ~~†a†~~ professional engineer or professional land surveyor. †; and~~

~~—(b) The professional engineer or professional land surveyor placed in responsible charge of engineering or land surveying work performed at the place of business is not required to be employed full-time at that place of business.†~~

3. Except as otherwise provided in subsection 5:

(a) A firm, partnership, corporation or other person who performs or offers to perform engineering services in a certain discipline ~~†at a particular place of business†~~ in this state shall employ full-time ~~†at that place of business†~~ a professional engineer licensed in that discipline.

(b) Each person who holds himself or herself out as practicing a certain discipline of engineering must be licensed in that discipline or employ full-time a professional engineer licensed in that discipline.

4. Professional engineers and professional land surveyors may join or form a partnership, corporation, limited-liability company or other business organization or association with registrants and licensees outside of their field of practice, or with persons who are not registered or licensed.

5. The provisions of this section do not apply to a firm, partnership, corporation or other person who ~~is~~

~~—(a) Practices} **practices** professional engineering for his or her benefit and does not engage in the practice of professional engineering or offer professional engineering services to other persons . ~~is or~~~~

~~—(b) Is engaged in the practice of professional engineering or land surveying in offices established for limited or temporary purposes, including offices established for the convenience of field survey crews or offices established for inspecting construction.}~~

**Sec. 5. ~~NRS 625.425 is hereby amended to read as follows:~~**

~~625.425 1. Except as otherwise provided in NRS 239.0115, any information obtained during the course of an investigation by the Board and any record of an investigation is confidential ~~[.]~~ **and privileged.** If no disciplinary action is taken against a licensee, an applicant for licensure, an intern or an applicant for certification as an intern, or no civil penalty is imposed pursuant to NRS 625.590, the information in his or her investigative file remains confidential ~~[.]~~ **and privileged.**~~

~~2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.~~

~~3. The provisions of this section do not prohibit the Board or its employees from communicating and cooperating with another licensing board or any other agency that is investigating a person.} **(Deleted by amendment.)**~~

**Sec. 6. NRS 625.460 is hereby amended to read as follows:**

625.460 1. If, after a hearing, a majority of the members of the Board present at the hearing vote in favor of finding the accused person guilty, the Board may:

(a) Revoke the license of the professional engineer or professional land surveyor or deny a license to the applicant;

(b) Suspend the license of the professional engineer or professional land surveyor;

(c) **Issue an order to cease and desist against the licensee;**

(d) Fine the licensee or applicant for licensure not more than \$15,000 for each violation of a provision of this chapter or any regulation adopted by the Board;

~~{(d)}~~ (e) Place the licensee or applicant for licensure on probation for such periods as it deems necessary and, if the Board deems appropriate, require the licensee or applicant for licensure to pay restitution to clients or other persons who have suffered economic losses as a result of a violation of the provisions of this chapter or the regulations adopted by the Board; or

~~{(e)}~~ (f) Take such other disciplinary action as the Board deems appropriate.

2. The Board shall not issue a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 7.** NRS 625.520 is hereby amended to read as follows:

625.520 1. Except as otherwise provided in subsection 4, it is unlawful for:

(a) Any person not properly licensed or exempted in accordance with the provisions of this chapter to:

(1) Practice, continue to practice, solicit to practice, offer to practice or attempt to practice engineering or any discipline thereof;

(2) Employ, use or cause to be used the term “licensed engineer,” “professional engineer” or “registered engineer” or any combination, variation or abbreviation thereof as a professional or commercial identification, representation, claim, asset or means of advantage or benefit;

(3) Employ, use or cause to be used the term “engineer,” “engineering” or “engineered” or any combination, variation or abbreviation thereof *in connection with a discipline of professional engineering for which licensure is required pursuant to this chapter* as a professional or commercial identification, representation, claim, asset or means of advantage or benefit without disclosing that the person is not qualified, registered or licensed to practice *that discipline of* professional engineering in this state; or

(4) Directly or indirectly employ any means which in any manner tends or is likely to mislead the public or any member thereof that any person is qualified or authorized to practice engineering.

(b) Any professional engineer to practice or offer to practice a discipline of professional engineering in which the Board has not qualified him or her.

(c) Any person to present or attempt to use, as his or her own, the license or stamp of another person.

(d) Any person to give any false or forged evidence of any kind to the Board or any member thereof in obtaining a license.

(e) Any person to impersonate a licensee of a like or different name.

(f) Any person to attempt to use an expired, suspended or revoked license.

(g) Any person to violate any of the provisions of this chapter.

2. If any person is engaging or is about to engage in any act or practice that constitutes a violation of this chapter ~~1, the~~:

(a) ***The Board may issue an order to cease and desist against the firm, partnership, corporation or other person; or***

(b) ***The*** district court in any county which would have jurisdiction over the violation, may, upon application of the Board, issue an injunction or restraining order against the act or practice pursuant to Rule 65 of the Nevada Rules of Civil Procedure.

3. This section does not prevent a contractor licensed in accordance with the provisions of chapter 624 of NRS from using the term “engineer” or “engineering” if the term is used by the State Contractors’ Board in describing a specific classification.

4. The provisions of subparagraph (3) of paragraph (a) of subsection 1 do not apply to any corporation using such a term in its corporate name, if the corporation:

- (a) Files its articles of incorporation with the Secretary of State; and
- (b) Files with the Board a written statement signed by a corporate officer under penalty of perjury in which the officer states that the corporation:
  - (1) Is not practicing or offering to practice engineering in this state; and
  - (2) Will not do so unless it is licensed or exempted in accordance with the provisions of this chapter.

5. Any person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor.

**Sec. 8.** NRS 329.020 is hereby amended to read as follows:

329.020 It is the purpose of this chapter to protect and perpetuate public land survey corners and *other corners, along with* information concerning the location of such corners by requiring the systematic establishment of monuments and recording of information concerning the location of such corners, thereby providing for property security and a coherent system of property location and identification, and eliminating the repeated necessity for re-establishment and relocations of such corners once they are established and located.

**Sec. 9.** NRS 329.140 is hereby amended to read as follows:

329.140 **1.** Except as otherwise provided in *subsection 2 and* NRS 329.145, a surveyor shall complete, sign and record or cause to be recorded with the county recorder of the county in which the corner is situated a written record of the establishment or restoration of a ~~public land survey~~ corner. Except as otherwise provided in *subsection 2 and* NRS 329.145, such a recording must be made for every ~~public land survey~~ corner and accessory to the corner which is established, re-established, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey. The survey information must be recorded within 90 days after the survey is completed.

**2. A corner record may not be used:**

- (a) *For the perpetuation of more than six corners.*
- (b) *In lieu of a record of survey recorded pursuant to NRS 625.340 to 625.380, inclusive.*

**Sec. 10.** NRS 329.180 is hereby amended to read as follows:

329.180 Where a corner record of a ~~public land survey~~ corner is required to be recorded pursuant to the provisions of this chapter, the surveyor must reconstruct or rehabilitate the monument of such corner and the accessories to such corner so that such corner and accessories may be readily located at any time in the future.

**Sec. 11.** NRS 625.203 and 625.285 are hereby repealed.

**Sec. 12.** This act becomes effective on July 1, 2019.

**TEXT OF REPEALED SECTIONS**

**625.203 Board may waive certain requirements for licensure as professional engineer for qualified applicants.** The Board may waive any requirement for education that is required for licensure as a professional engineer pursuant to subsection 3 of NRS 625.183 and may issue a license to practice professional engineering to a person who:

1. Before July 1, 2010, received approval from the Board to take the examination on the principles and practices of engineering pursuant to paragraph (b) of subsection 1 of NRS 625.193; and

2. Before August 1, 2014:

(a) Passes the examination for licensure pursuant to NRS 625.193; and

(b) Has a record of 10 years or more of active experience in engineering which is satisfactory to the Board and which indicates the person is competent to be placed in responsible charge of engineering work.

**625.285 Board may waive certain requirements for licensure as professional land surveyor for qualified applicants.** The Board may waive any requirement for education that is required for licensure as a professional land surveyor pursuant to subsection 3 of NRS 625.270 and may issue a license to practice professional land surveying to a person who:

1. Before July 1, 2010, received approval from the Board to take the examination on the principles and practices of land surveying pursuant to paragraph (b) of subsection 1 of NRS 625.280; and

2. Before August 1, 2014, passes the examination for licensure pursuant to NRS 625.280.

Assemblywoman Spiegel moved the adoption of the amendment.

Remarks by Assemblywoman Spiegel.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 431.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 823.

AN ACT relating to crimes; revising provisions relating to the crime of participation in organized retail theft; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that the crime of participation in organized retail theft may be committed by one or more persons who conduct a series of thefts of retail merchandise at one or more merchants in this State with the intent to return the merchandise for value or resell, trade or barter the merchandise for value. (NRS 205.08345) This bill provides that the crime of organized retail theft may be committed by one or more persons who **knowingly** participate directly or indirectly in or engage in conduct ~~[in furtherance of the]~~ **with the**



**intent to further an** organized retail theft. This bill further provides that the acts constituting organized retail theft may be committed on the premises of a merchant or through the use of an Internet or network site and with the intent to return the merchandise for value or resell, trade or barter the merchandise for value, in any manner, including, without limitation, through the use of an Internet or network site. This bill also revises the period of time, from 90 days to ~~180~~ **120** days, for which the value of the property or services involved in the organized retail theft may be aggregated for purposes of determining the criminal penalty.

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

**Section 1.** NRS 205.08345 is hereby amended to read as follows:

205.08345 1. A person who **knowingly** participates **directly or indirectly in or engages in conduct** ~~in furtherance of~~ **with the intent to further an** organized retail theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of ~~90-180~~ **120** days is at least \$3,500 but less than \$10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

(b) If the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of ~~90-180~~ **120** days is \$10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than \$20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of ~~90-180~~ **120** days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in the organized retail theft was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) **“Internet or network site” has the meaning ascribed to it in NRS 205.4744.**

(b) “Merchant” has the meaning ascribed to it in NRS 597.850.

~~{(b)}~~ (c) “Organized retail theft” means committing, either alone or with any other person or persons, a series of thefts of retail merchandise against one or more merchants, *either on the premises of a merchant or through the use of an Internet or network site*, in this State with the intent to:

- (1) Return the merchandise to the merchant for value; or
- (2) Resell, trade or barter the merchandise for value ~~{}~~ *in any manner, including, without limitation, through the use of an Internet or network site.*

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 841.

AN ACT relating to financial services; imposing certain requirements on certain transactions in which a person provides money to a consumer who has a pending legal action in exchange for certain proceeds from that legal action; requiring certain persons who engage in such transactions to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

**Sections ~~{2-38}~~ 2-38.9** of this bill establish provisions relating to transactions in which a person provides a consumer who has a pending legal claim in this State with money and the consumer assigns to that person the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained as a result of the legal action of the consumer.

**Section 10** of this bill designates this type of transaction as a “consumer litigation funding transaction.” **Section 8** of this bill designates the provider of money to a consumer in such a transaction as a “consumer litigation funding company.”

**Sections 18, 19 and 19.3** of this bill generally require a contract to enter into a consumer litigation funding transaction to meet certain requirements and contain certain disclosures relating to the amount of fees the consumer will be charged and the rights of the consumer with regard to the consumer litigation funding transaction.

**Section 20** of this bill prohibits a consumer litigation funding company from: (1) paying or accepting certain referral fees or commissions; (2) referring a consumer to engage certain professionals; (3) advertising false information; (4) entering into a consumer litigation funding transaction with a consumer who has already received money from another company, with certain

exceptions; (5) making decisions with regard to the legal claim of the consumer; and (6) paying certain legal fees of the consumer with money from the consumer funding transaction.

**Section 21** of this bill requires the amount the consumer is required to pay the consumer litigation funding company in exchange for the money received by the consumer to be set as a predetermined amount. **Section 21** prohibits a company from charging fees that exceed a rate of 40 percent annually.

**Section 25** of this bill prohibits a person from engaging in business as a consumer litigation funding company without a license issued by the Commissioner of Financial Institutions. **Section 25** provides that a person who engages in such business without a license is guilty of a misdemeanor. **Sections 26-32** of this bill set forth the application process to obtain such a license and set forth certain requirements an applicant must meet.

**Sections 35 and 36** of this bill require a person who has obtained a license to engage in business as a consumer litigation funding company to maintain assets of at least \$50,000 and to keep certain records. **Section 36.2 of this bill requires the Commissioner to make an annual examination of a licensee.** **Sections 38.3 and 38.6** of this bill authorize the Commissioner to impose fines and suspend or revoke the license of a licensee for certain violations of the provisions of this bill. **Section 38.2 of this bill authorizes the Commissioner to take certain additional actions against a licensee or certain other persons for violations of the provisions of this bill.** **Section 38** of this bill requires each licensee to submit to the Commissioner an annual report with certain information regarding the activities of the licensee in the preceding year and to make the information contained in the report available to the public not later than 1 year after the report is submitted. **Section 38.9 of this bill authorizes: (1) a person to file a complaint against a licensee; and (2) the Commissioner to investigate and hold hearings concerning such a complaint.** **Sections 36.4, 36.6 and 38.95 of this bill require a licensee to pay certain assessments.**

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

**Section 1.** Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~38.1~~ **38.9**, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Advertise” means the commercial use of any medium, including, without limitation, radio, television, the Internet or a similar medium of communication, by a consumer litigation funding company for the purpose of inducing a consumer to enter into a consumer litigation funding transaction.*

Sec. 3.5. “Applicant” means a person who applies to the Commissioner to obtain a license to engage in the business of a consumer litigation funding company pursuant to the provisions of this chapter. The term does not include a parent company or affiliate of such a person.

Sec. 4. “Charges” means the amount of money to be paid to a consumer litigation funding company by a consumer above the funded amount provided by the consumer litigation company to the consumer. The term includes, without limitation, administrative fees, origination fees, underwriting fees or other fees, however denominated. The term does not include a document preparation fee.

Sec. 5. “Commissioner” means the Commissioner of Financial Institutions.

Sec. 6. “Consumer” means a natural person who:

1. Resides or is domiciled in this State; and
2. Has a pending legal claim.

Sec. 7. “Consumer litigation funding” means the money provided directly or indirectly to a consumer by a consumer litigation funding company in a consumer litigation funding transaction.

Sec. 8. 1. “Consumer litigation funding company” or “company” means a person that enters into a consumer litigation funding transaction with a consumer.

2. The term does not include:

- (a) An immediate family member of a consumer;
- (b) An attorney or accountant who provides services to a consumer; ~~or~~
- (c) A medical provider that provides medical services on the basis of a lien against any potential litigation recovery;

(d) A medical factoring company; or

(e) A financial institution or similar entity:

- (1) That provides financing to a consumer litigation funding company;

or

(2) To which a consumer litigation funding company grants a security interest or transfers any right or interest in a consumer litigation funding transaction.

Sec. 9. “Consumer litigation funding contract” means a written agreement between a consumer and a consumer litigation funding company that provides for a consumer litigation funding transaction.

Sec. 10. “Consumer litigation funding transaction” means a nonrecourse transaction in which:

1. A consumer litigation funding company provides consumer litigation funding to a consumer; and

2. The consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the legal claim of the consumer.

*Sec. 10.5. “Document preparation fee” means a one-time fee per legal claim, not to exceed \$500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.*

*Sec. 11. “Funded amount” means the amount of consumer litigation funding provided to or on behalf of a consumer in a consumer litigation funding transaction. The term does not include charges.*

*Sec. 12. “Funding date” means the date on which a company transfers to a consumer the funded amount of consumer litigation funding.*

*Sec. 13. “Immediate family member” means a parent, sibling, child by blood, adoption or marriage, spouse, grandparent or grandchild.*

*Sec. 14. “Legal claim” means a bona fide civil claim or cause of action.*

*Sec. 15. “Licensee” means a person who has been issued one or more licenses to engage in the business of a consumer litigation funding company.*

*Sec. 16. “Resolution date” means the date upon which:*

*(a) A consumer, or a person on behalf of a consumer, delivers to a consumer litigation company an amount of money equivalent to the funded amount plus any agreed upon charges; or*

*(b) The legal claim of a consumer is lost or abandoned.*

*Sec. 17. ~~He~~ The Commissioner may adopt regulations ~~and make orders~~ for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter.*

~~*2. Any ruling, demand, requirement or similar administrative act may be promulgated by an order.*~~

~~*3. Every order must be in writing, must state its effective date and the date of its promulgation, and must be entered in an indexed permanent book which is a public record.*~~

~~*4. A copy of every order containing a requirement of general application must be mailed to each licensee at least 20 days before the effective date thereof.*~~

*Sec. 18. 1. A consumer litigation funding contract must:*

*(a) Be written in a clear and comprehensible language that is understandable to an ordinary layperson.*

*(b) Be filled out completely when presented to the consumer for signature.*

*(c) Contain a provision ~~entitling~~ advising a consumer ~~to~~ of the right of rescission to cancel the contract. Such a provision must provide that the consumer may cancel the contract without penalty or further obligation if, within 5 business days after the funding date, the consumer:*

*(1) ~~Returns~~ Delivers in person to the consumer litigation funding company, at the address specified in the contract, the uncashed check issued by the consumer litigation funding company or the full amount of money that was disbursed to the consumer by the consumer litigation funding company; ~~by delivering to the office of the company in person the uncashed check issued by the company~~; or*

*(2) Mails, by insured, certified or registered mail, to the address specified in the contract, a notice of cancellation and includes in such*

mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to the consumer by the consumer litigation funding company. ~~[in the form of the uncashed check issued by the company or a registered or certified check or money order.]~~

(d) Contain the initials of the consumer on each page.

(e) Contain a statement that the consumer is not required to pay any other fees or charges other than what is agreed to and disclosed within the contract.

(f) If the consumer seeks more than one consumer litigation funding contract with the same company, contain a disclosure providing the cumulative amount due from the consumer for all consumer litigation funding transactions, including, without limitation, all fees and charges under all consumer litigation funding contracts if repayment is made any time after the contracts are executed.

(g) Contain a statement of the maximum amount the consumer may be obligated to pay under the consumer litigation funding contract other than in the case of material breach, fraud or misrepresentation by the consumer.

(h) Contain clear, ~~and~~ conspicuous and accurate details of how charges, including, without limitation, any applicable fees, are incurred or accrued.

(i) Contain a statement that the consumer litigation funding contract is governed by the laws of the State of Nevada.

2. A consumer litigation contract must contain a written acknowledgment by the attorney retained by the consumer in the legal claim of the consumer attesting to the following:

(a) To the best of the knowledge of the attorney, the funded amount and any charges and applicable fees relating to the consumer litigation funding have been disclosed to the consumer.

(b) The attorney is being paid on a contingency basis pursuant to a written fee agreement.

(c) All proceeds of the legal claim will be disbursed via the trust account of the attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer.

(d) The attorney is following the written irrevocable instructions of the consumer with regard to the consumer litigation funding transaction.

(e) The attorney is obligated to disburse money from the legal claim and take any other steps to ensure that the terms of the consumer litigation funding contract are fulfilled.

(f) The attorney has not received a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding, nor will the attorney receive such fee or other consideration in the future.

(g) The attorney has not provided ~~no~~ advice related to taxes, benefits or any other financial matter regarding this transaction.

3. A consumer litigation funding contract that does not contain the written acknowledgment required by paragraph (c) of subsection 2 is void. If the acknowledgment is completed, the contract shall remain valid if the consumer terminates the representation of the initial attorney or retains a new attorney with respect to the legal claim of the consumer.

Sec. 19. A consumer litigation funding contract must contain the disclosures specified in this section, which shall constitute material terms of the contract. Except as otherwise provided in this section, the disclosure shall be typed in at least 12-point bold type or font and be placed clearly and conspicuously within the contract, as follows:

1. On the front page of the contract under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer litigation funding company;

(b) An itemization of one-time charges ~~and~~ and fees;

(c) The maximum total amount to be assigned by the consumer to the company, including, without limitation, the funded amount and all charges ~~and~~ and fees; and

(d) A payment schedule to include the funded amount, ~~and~~ and charges ~~and~~ and fees, listing all dates and the amount due at the end of each 180-day period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due under the consumer litigation funding contract.

2. Within the body of the contract, substantially the following form:

*Consumer's right to cancellation: You may cancel this contract without penalty or further obligation within five (5) business days after the funding date if you either:*

1. ~~Return~~ Deliver in person to the consumer litigation funding company at the address specified in the contract the uncashed check that was issued by the consumer litigation funding company or the full amount of money that was disbursed to you by ~~delivering the uncashed check issued by~~ the company; ~~to the office of the company in person;~~ or

2. Mail, by insured, certified or registered mail, to the consumer litigation funding company at the address specified in the contract a notice of cancellation and include in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to you ~~in the form of the uncashed check issued~~ by the company. ~~for a registered or certified check or money order.~~

3. Within the body of the contract, in substantially the following form:

*The consumer litigation funding company shall not have a role in deciding whether, when and how much the legal claim is settled for.*

*The consumer and the attorney of the consumer shall notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The company may seek updated information about the status of the legal claim. The company shall not interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof.*

4. *Within the body of the contract, in all capital letters and in at least a 12-point bold type or font contained within a box:*

**THE FUNDED AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS CONTRACT OR YOU HAVE KNOWINGLY PROVIDED FALSE INFORMATION OR COMMITTED FRAUD AGAINST (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY).**

5. *Located immediately above the place on the contract where the signature of the consumer is required, in 12-point bold type or font:*

*Do not sign this contract before you read it completely. Do not sign this contract if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract before you sign this contract. You should obtain the advice of an attorney. Depending on the circumstances, you may wish to consult a tax, public or private benefit planning or financial professional. You acknowledge that your attorney in the legal claim has provided no tax, public or private benefit planning or financial advice regarding this transaction. You further acknowledge that your attorney has explained the terms and conditions of the consumer litigation funding contract.*

6. *Within the body of the contract, in substantially the following form:*

*A copy of the executed contract must be promptly delivered to the attorney for the consumer.*

**Sec. 19.3. 1. A consumer litigation funding contract must include a written disclosure, signed by the consumer that is typed in at least a 12-point font.**

**2. The disclosure described in subsection 1 must be separate from the consumer litigation funding contract described in section 19 of this act.**



3. *The disclosure described in subsection 1 must include, without limitation:*

- (a) A summary of all applicable charges and fees;*
- (b) The full cost of the consumer litigation funding transaction, written in bold font;*
- (c) The full amount of the consumer litigation funding;*
- (d) A statement that the attorney retained by the consumer in the legal claim of the consumer is being retained on a contingency basis pursuant to a written fee agreement;*
- (e) A statement that the consumer is fully informed and aware that all proceeds of the legal claim of the consumer will be disbursed via the trust account of the retained attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer;*
- (f) A statement that the retained attorney has not received and will not receive a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding transaction; and*
- (g) An acknowledgment, signed by the consumer, that the consumer was fully informed and aware of the charges and fees and the full cost of the consumer litigation funding transaction at the time of the execution of the consumer litigation funding contract.*

Sec. 19.7. *If a consumer cancels a consumer litigation funding contract pursuant to section 18 of this act, the consumer litigation funding company shall promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer.*

Sec. 20. 1. *A consumer litigation funding company shall not:*

- (a) Pay or offer to pay a commission, referral fee or other form of consideration to an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person, for referring a consumer to the company.*
- (b) Accept a commission, referral fee or other form of consideration from an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person.*
- (c) Intentionally advertise materially false or misleading information regarding the products or services of the consumer litigation funding company.*
- (d) Refer a consumer to engage a specific attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person. A company may refer a consumer in search of legal representation to a lawyer referral service operated, sponsored or approved by the State Bar of Nevada or a local bar association.*
- (e) Except as otherwise provided in subsection 2, knowingly provide consumer litigation funding to a consumer who has previously assigned or sold a portion of the right of the consumer to proceeds from his or her legal claim to another company without first making payment to or purchasing*

*the entire funded amount and charges of that company, unless a lesser amount is otherwise agreed to in writing by the consumer litigation funding companies.*

*(f) Receive any right to, or make, any decisions with respect to the conduct, settlement or resolution of the legal claim of a consumer.*

*(g) Knowingly pay or offer to pay for court costs, filing fees or attorney's fees during or after the resolution of the legal claim of a consumer using money from a consumer litigation funding transaction.*

*2. Two or more consumer litigation funding companies may agree to contemporaneously provide consumer litigation funding to a consumer if the consumer and the attorney of the consumer agree to the arrangement in writing.*

*3. An attorney or law firm retained by the consumer in connection with his or her legal claim shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.*

*4. An attorney who has referred the consumer to his or her retained attorney or law firm shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.*

*5. A consumer litigation funding company shall not use any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner in accordance with procedures for filing prescribed by the Commissioner.*

*Sec. 21. 1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date through the resolution date. The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually.*

*2. The amount to be paid to a company under a consumer litigation funding contract must not be determined as a percentage of the recovery of the legal claim of a consumer.*

*Sec. 22. 1. If a court of competent jurisdiction determines that a consumer litigation funding company has willfully committed a deceptive and abusive violation of this chapter with regard to a specific consumer litigation funding transaction, the contract shall be void.*

*2. Nothing in this chapter shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform by law.*

*Sec. 23. 1. The contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer.*

*2. Nothing in this chapter shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A*

*consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.*

*3. Only a lien imposed by an attorney pursuant to NRS 18.015 that is related to the legal claim of the consumer or a lien imposed by Medicare that is related to the legal claim of a consumer takes priority over any lien imposed by a consumer litigation funding company. All other liens take priority by normal operation of law.*

*Sec. 24. Any communication between the attorney of a consumer in a legal claim and a consumer litigation funding company as it pertains to a consumer litigation funding transaction is subject to the attorney-client privilege, including, without limitation, the work-product doctrine.*

*Sec. 25. 1. A person shall not engage in the business of a consumer litigation funding company in this State without having first obtained a license from the Commissioner pursuant to this chapter.*

*2. For the purpose of this section, a person is “engaged in the business of a consumer litigation funding company” if the person:*

*(a) Solicits or engages in consumer litigation funding transactions in this State; or*

*(b) Is located in this State and solicits or engages in consumer litigation funding transactions outside of this State.*

*3. Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of this section are guilty of a misdemeanor.*

*Sec. 25.5. The provisions of section 25 of this act shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatever, including, but not thereby limiting the generality of the foregoing:*

*1. The loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods, or things in action.*

*2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended.*

*3. Receiving or charging compensation for goods or services, whether or not sold, delivered or provided.*

*4. The real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.*

*Sec. 26. 1. A person who wishes to obtain a license from the Commissioner to engage in the business of a consumer litigation funding company shall submit an application to the Commissioner. The application must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:*

*(a) If the applicant is a natural person, the name and address of the applicant.*

*(b) If the applicant is a business entity, the name and address of each:*

- (1) *Partner;*
- (2) *Officer;*
- (3) *Director;*
- (4) *Manager or member who acts in a managerial capacity; and*
- (5) *Registered agent,*

↪ *of the business entity.*

(c) *Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:*

- (1) *Partners;*
- (2) *Officers;*
- (3) *Directors; and*
- (4) *Managers or members who act in a managerial capacity.*

(d) *The address of each location at which the applicant proposes to do business under the license.*

2. *A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:*

(a) *Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.*

↪ *The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.*

3. *The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner shall not issue a license to the applicant unless the applicant submits a new application and pays any required fees.*

Sec. 27. 1. *In addition to any other requirements set forth in this chapter, each applicant must submit:*

(a) *Proof satisfactory to the Commissioner that the applicant:*

(1) *Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.*

(2) *Has not made a false statement of material fact on the application for the license.*

(3) *Has not committed any of the acts specified in subsection 2.*

(4) *Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.*

(5) *Has not been convicted or, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.*

(6) *If the applicant is a natural person:*

(I) *Is at least 21 years of age; and*

(II) *Is a citizen of the United States or lawfully entitled to remain and work in the United States.*

(b) *A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

2. *In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:*

(a) *Has committed or participated in any act for which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.*

(b) *Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.*

(c) *Has participated in any act which was a basis for the denial or revocation of a license pursuant to this chapter.*

(d) *Has falsified any of the information submitted to the Commissioner in support of the application for a license.*

Sec. 28. 1. *In addition to any other requirements, a natural person who applies for a license pursuant to this chapter shall:*

(a) *Include the social security number of the applicant in the application submitted to the Commissioner; and*

(b) *Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. *The Commissioner shall include the statement required pursuant to subsection 1 in:*

(a) *The application or any other forms that must be submitted for the issuance or renewal of the registration; or*

(b) *A separate form prescribed by the Commissioner.*

3. *A license as a consumer litigation funding company may not be issued or renewed by the Commissioner if the applicant:*

(a) *Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

*4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

*Sec. 29. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is licensed as a consumer litigation funding company, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Commissioner shall reinstate the license of a licensee that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 30. 1. An application submitted to the Commissioner pursuant to section 26 of this act must be accompanied by:*

*(a) A nonrefundable fee of not more than \$1,000 for the application and survey;*

*(b) Any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and*

*(c) A fee of not less than \$200 and not more than \$1,000 ~~prorated on the basis of the licensing year as prescribed by the Commissioner.~~*

*2. An applicant shall, at the time of filing an application, file with the Commissioner, a surety bond payable to the State of Nevada and satisfactory to the Commissioner in an amount not to exceed \$50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must provide that the applicant will faithfully conform to and abide by the provisions of this chapter and to all regulations lawfully made by the Commissioner under this chapter and to any such*

*person any and all amounts of money that may become due or owing to this State or to such person from the applicant under this chapter during the period for which the bond is given.*

*3. Each bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services of the consumer litigation funding company.*

*4. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.*

*5. The liability of the surety on a bond is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.*

*6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after the earlier of:*

*(a) The death of the licensee or the dissolution or liquidation of his or her business; or*

*(b) The termination of the bond.*

*7. A licensee or his or her surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.*

*8. The Commissioner shall adopt regulations establishing the amount of the fees and the bond required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account created by NRS 232.545.*

*Sec. 31. 1. Upon the filing of the application and the payment of the fees, the Commissioner shall investigate the facts concerning the application and the requirements provided for in this chapter.*

*2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as the Commissioner may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other person as the Commissioner may see fit, at least 10 days before the date set for the hearing.*

3. *The Commissioner shall make his or her order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.*

4. *An applicant is entitled to a hearing on the question of the qualifications of the applicant for licensure upon written request to the Commissioner if:*

*(a) The Commissioner has notified the applicant in writing that the application has been denied; or*

*(b) The Commissioner has not issued a license within 60 days after the application for a license was filed.*

5. *A request for a hearing may not be made more than 15 days after the Commissioner has mailed a written notice to the applicant that the application has been denied and stating in substance the findings of the Commissioner supporting the denial of the application.*

6. *The Commissioner may adopt regulations to carry out the provisions of this section.*

*Sec. 32. If the Commissioner finds:*

1. *That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, within the purposes of this chapter;*

2. *That the applicant has complied with the provisions of this chapter; and*

3. *That the applicant has available for the operation of the business liquid assets of at least \$50,000,*

*he or she shall thereupon enter an order granting the application, and file his or her findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.*

*Sec. 33. 1. A licensee who wishes to change the address of an office or other place of business for which he or she has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. *Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.*

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$1,000.*

*Sec. 34. A license issued pursuant to this chapter is not transferable or assignable.*

*Sec. 35. Every licensee shall maintain assets of at least \$50,000 either used or readily available for use in the conduct of the business of each licensed office.*

*Sec. 35.5. A licensee who has an office or other place of business located outside of this State shall file with the Commissioner the information*



*required pursuant to NRS 77.310 and continuously maintain a registered agent for service of legal process. Such agent must be an attorney who is licensed to practice law in this State and who has an office located in this State.*

*Sec. 36. 1. Each licensee shall keep and use in his or her business such books and accounting records as are in accord with sound and accepted accounting practices.*

*2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.*

*3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.*

*4. Each licensee who operates an office or other place of business outside this State that is licensed pursuant to this chapter shall:*

*(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

*(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.*

*Sec. 36.2. 1. At least once each year, the Commissioner or his or her authorized representative shall make an examination of the place of business of each licensee and of the transactions, books, papers and records of each licensee that pertain to the business licensed under this chapter.*

*2. For each examination conducted pursuant to subsection 1, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established and, if applicable, adjusted pursuant to NRS 658.101.*

*Sec. 36.4. Each licensee shall pay the assessment levied pursuant to NRS 658.055 and cooperate fully with the audits and examinations performed pursuant thereto.*

*Sec. 36.6. In addition to any other fee provided by this chapter, the Commissioner shall assess and collect from each licensee the reasonable cost of auditing the books and records of a licensee.*

*Sec. 37. A licensee shall not conduct the business of a consumer litigation funding company under any name or at a place other than stated in the license. Nothing in this section shall be construed to prohibit:*

*1. Consumer litigation funding transactions by mail; or*

*2. Accommodations for a consumer when necessitated by hours of employment, sickness or other emergency situations.*

Sec. 38. 1. *On or before January 31 of each year, a licensee shall submit a report to the Commissioner containing:*

*(a) The number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year;*

*(b) A summation of the total funded amount of the consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year, expressed in dollars; and*

*(c) The annual percentage charged to each consumer when repayment was made.*

2. *If a licensee operated more than one office or provides consumer litigation funding to persons outside of the State, the licensee shall submit a composite report of all consumer litigation funding transactions in which the company engaged for the immediately preceding year.*

3. *The Commissioner shall make the information contained in the report available to the public upon request in a manner which maintains the confidentiality of the name of each company and consumer ~~for not later than 1 year after the report is submitted.~~*

Sec. 38.2. 1. The Commissioner may enforce this chapter and regulations adopted pursuant thereto by taking one or more of the following actions:

(a) Ordering a licensee or a director, employee or other agent of a licensee to cease and desist from any violations;

(b) Ordering a licensee or a director, employee or other agent of a licensee who has caused a violation to correct the violation, including, without limitation, making restitution of money to a person aggrieved by a violation;

(c) Imposing on a licensee or a director, employee or other agent of a licensee who has caused a violation a civil penalty not to exceed \$5,000 for each violation; or

(d) Suspending or revoking the license of a licensee in accordance with section 38.6 of this act.

2. If a person violates or knowingly authorizes, directs or aids in the violation of a final order issued pursuant to paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed \$10,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county in this State.

4. The Commissioner may recover the reasonable costs of enforcing subsections 1, 2 and 3, including, without limitation, attorney's fees, based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty imposed pursuant to subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator and any other factor the Commissioner considers relevant to the determination of a civil penalty.

Sec. 38.3. 1. *The Commissioner may impose an administrative fine of not more than \$50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.*

2. *The Commissioner shall afford to any person fined pursuant to subsection 1 reasonable notice and an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

3. *A person fined by the Commissioner pursuant to subsection 1 is entitled to judicial review of the decision of the Commissioner in the manner provided by chapter 233B of NRS.*

Sec. 38.6. 1. *The Commissioner may suspend or revoke a license if:*

(a) *The licensee has failed to pay the annual license fee;*

(b) *The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;*

(c) *The licensee has failed to pay an applicable tax, fee or assessment; or*

(d) *Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter.*

2. *If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

3. *At the conclusion of a hearing, the Commissioner shall:*

(a) *Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.*

(b) *Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.*

(c) *If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.*

4. *Unless otherwise provided in an order, the order for the revocation or suspension of a license applies only to the license granted to a person for the particular location for which grounds for revocation or suspension exist.*

5. *A licensee upon whom a fine has been imposed or whose license was suspended or revoked pursuant to this section is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.*

Sec. 38.8. 1. *Except as otherwise provided in this section, if a licensee willfully:*

(a) Enters into a consumer litigation funding contract for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

↳ the consumer litigation funding contract is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges ~~for~~ or fees with respect to the consumer litigation funding transaction.

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

Sec. 38.9. 1. A consumer, an attorney for a consumer or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon the receipt of a complaint filed pursuant to subsection 1, the Commissioner may investigate and conduct hearings concerning the complaint.

Sec. 38.95. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;

(e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;

(g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(h) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(i) Credit union that is supervised pursuant to chapter 678 of NRS.

**(j) Consumer litigation funding company that is supervised pursuant to the chapter consisting of sections 2 to 38.9, inclusive, of this act.**

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

**Sec. 39.** 1. Notwithstanding the amendatory provisions of this act, a consumer litigation funding company that ~~submits~~ :

**(a) Holds a license issued pursuant to chapter 675 of NRS on or before October 1, 2019; and**

**(b) Submits** an application for licensure pursuant to section 26 of this act on or before January 1, 2020, ~~for such other date as the Commissioner of Financial Institutions may prescribe by regulation,~~

**↪ shall be deemed to hold a license to engage in the business of a consumer litigation funding company issued pursuant to section 32 of this act and** may continue to conduct consumer litigation funding transactions while the application for licensure is pending approval or denial.

2. **The Commissioner of Financial Institutions may adopt regulations for the administration and enforcement of this section.**

3. As used in this section:

(a) “Consumer litigation funding company” has the meaning ascribed to it in section 8 of this act.

(b) “Consumer litigation funding transaction” has the meaning ascribed to it in section 10 of this act.

**Sec. 40.** The amendatory provisions of this act do not apply to any contract entered into before July 1, 2019, until the contract is **amended**, extended or renewed.

**Sec. 41.** ~~1. This act becomes effective on July 1, 2019.~~  
~~2.~~ Sections 28 and 29 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

~~(a)~~ **1.** Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

~~(b)~~ **2.** Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Assemblywoman Spiegel moved the adoption of the amendment.

Remarks by Assemblywoman Spiegel.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 435.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 720.

SUMMARY—Enacts provisions relating to claims for ~~personal~~ **mental or physical** injury. (BDR 2-1148)

AN ACT relating to claims for ~~personal~~ **mental or physical** injury; authorizing a party to void a release of liability under certain circumstances; ~~prohibiting certain persons from negotiating, obtaining or attempting to obtain a settlement agreement, release of liability or certain other statements from another person relating to a personal injury under certain circumstances;~~ enacting provisions relating to the exchange of medical and insurance information by certain persons involved in a claim for ~~personal~~ **mental or physical** injury asserted under a policy of insurance covering ~~certain~~ motor vehicles; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

**Section 2** of this bill provides that a release of liability relating to the personal injury of a releasor may be voided by the releasor within ~~60~~ **30** days after the signing of the release, if the releasor signed the release: (1) within 30 days after the event that **initially** caused the releasor’s injury; and (2) without the assistance of an attorney, ~~for power of attorney under certain circumstances.~~ **Section 2** provides that ~~if the releasor voids,~~ **in order to void** the release of liability, the releasor must: (1) ~~provide,~~ **sign a written** notice ~~to the releasor,~~ **disclosing the election of the releasor to void the release;**

and (2) within 10 days of signing the notice, send the original notice or a signed copy of the notice to the releasee and return any ~~{money}~~ consideration paid by the releasee.

~~[Section 3 of this bill provides that if a person was hospitalized or confined to a mental health facility as a result of a personal injury, a person whose interest is or may become adverse to the injured person is prohibited from negotiating, obtaining or attempting to obtain a settlement agreement, a release of liability or certain other statements from the injured person within 15 days after the event that caused the person's personal injury. Section 3 provides that if such a settlement agreement, release of liability or statement is obtained improperly within 15 days after the event that caused the personal injury, the settlement agreement, release of liability or statement is prohibited from being used as evidence or for any other purpose in a legal proceeding concerning the personal injury under certain circumstances.]~~

Section 4 of this bill authorizes a party against whom a claim is asserted for ~~{personal}~~ **a mental or physical** injury under a policy of motor vehicle insurance ~~{covering a passenger car}~~ to require the claimant or the claimant's attorney to provide to the party or the party's attorney and the insurer ~~{, not more than once every 90 days,}~~ **a written authorization to receive** all medical reports, records and bills concerning the claim ~~[. Section 4 provides that in lieu of the claimant or the claimant's attorney providing such reports, records and bills, the claimant or the claimant's attorney may provide a written authorization to allow the party or the party's attorney and the insurer to receive the reports, records and bills] from the claimant's provider of health care. Section 4 provides that after such authorization is granted, the authorization may not be revoked without cause. If the reports, records and bills are provided pursuant to such a written authorization, **section 4** authorizes the claimant or the claimant's attorney to request copies of all such reports, records and bills from the party, the party's attorney or the insurer. **Section 4** also provides that ~~{upon}~~ **within 10 days after** receipt of ~~{any copies of reports, records and bills or}~~ a written authorization for a provider of health care to provide such reports, records and bills, the insurer who issued the policy must, upon request, ~~{immediately disclose}~~ **provide a copy of the insurance policy and any endorsements, exclusions, limitations or restrictions modifying such a policy** to the claimant ~~{all pertinent facts or provisions of the policy relating to any coverage at issue.}~~ **or the claimant's attorney.** Section 4 provides that the provisions of the section cease to apply upon the commencement of a formal action in court arising from a claim asserted under the insurance policy.~~

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

**Section 1.** ~~{Chapter 10 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.} **(Deleted by amendment.)**~~

Sec. 2. Chapter 10 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A release of liability given in connection with any claim for personal injury sustained by a releasor is voidable by a releasor within ~~60~~ 30 days after its signing by the releasor, if the releasor signed the release:

(a) Within 30 days after the event that initially caused his or her ~~personal~~ injury; and

(b) Without the assistance or guidance of an attorney ~~or power of attorney.~~

2. ~~If the releasor voids~~ To void the release of liability pursuant to subsection 1, the releasor shall:

(a) ~~Provide~~ Sign a written notice ~~in writing, to the releasee that the release was voided,~~ disclosing the election of the releasor to void the release; and

(b) Within 10 days after signing the notice:

(1) Send the original notice or a signed copy of the notice to the releasee; and

(2) Return any consideration paid by the releasee.

3. A release of liability is void on the date that the notice pursuant to and any consideration described in subsection 2 ~~is provided to~~ are received by the releasee.

4. As used in this section:

(a) “Personal injury” means any mental or physical injury. The term does not include property damage.

(b) “Release of liability” means an agreement executed between a releasor and releasee.

~~(b)~~ (c) “Releasee” means a party who is being released by the releasor from any claim ~~arising from personal injuries, mental or physical, sustained by the releasor.~~

~~(c)~~ described in subsection 1.

(d) “Releasor” means a party who agrees to release the releasee from any claim ~~arising from personal injuries, mental or physical, sustained by the party.~~ described in subsection 1.

Sec. 3. ~~If a person is admitted as a patient to a hospital or a mental health facility as a result of a personal injury caused by another, a person whose interest is or may become adverse to the person who was injured shall not, within 15 days after the event that caused the injury:~~

~~(a) Negotiate or attempt to negotiate an agreement, including, without limitation, a settlement agreement, with the person who was injured; or~~

~~(b) Obtain or attempt to obtain:~~

~~(1) A release of liability from the person who was injured; or~~

~~(2) An oral or written statement from the person who was injured for use in negotiating a settlement agreement or obtaining a release of liability.~~

~~2. Notwithstanding any other provision of law, if a settlement agreement or release of liability is obtained in violation of subsection 1, the settlement~~



~~agreement or release of liability may not be used as evidence or for any other purpose in a legal proceeding relating to the injury of the person.] (Deleted by amendment.)~~

Sec. 4. Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Except as otherwise provided in subsection 2, any]~~ Any party against whom a claim is asserted for compensation or damages for ~~personal injury~~ any mental or physical injury under a policy of motor vehicle insurance ~~covering a passenger car~~ may require the claimant or any attorney representing the claimant to provide to the party or any attorney of the party and to the insurer ~~not more than once every 90 days, all medical reports, records and bills concerning the claim.~~

~~2. In lieu of providing medical reports, records and bills pursuant to subsection 1, the claimant or any attorney representing the claimant may provide to the party or any attorney of the party and to the insurer] a written authorization to receive ~~the~~ all medical reports, records and bills related to the claim from the provider of health care.~~

~~3. An authorization so provided may not be revoked without cause.~~

2. At the written request of the claimant or the attorney of the claimant, copies of all medical reports, records and bills obtained by a written authorization pursuant to subsection ~~2~~ 1 must be provided to the claimant or the attorney of the claimant within 30 days after the date they are received by the party, any attorney of the party or the insurer. If the claimant or the attorney of the claimant makes a written request for the medical reports, records and bills, the claimant or the attorney of the claimant shall pay for the reasonable costs of copying the medical reports, records and bills.

~~4. Upon]~~

3. Within 10 days after receipt of ~~any copies of medical reports, records and bills, or~~ a written authorization pursuant to subsection ~~2~~ 1, the insurer who issued the policy specified in subsection 1 shall, upon request, ~~immediately disclose to the claimant all pertinent facts or provisions of the policy relating to any coverage at issue.~~

~~5.] provide the claimant or any attorney representing the claimant with a copy of the relevant policy of motor vehicle insurance and any endorsements, exclusions, limitations or restrictions modifying the policy.~~

4. The provisions of subsections 1, 2 and 3 cease to apply upon the commencement of an action in court arising from a claim asserted under a policy of motor vehicle insurance.

5. As used in this section ~~f~~

~~(a) "Passenger car" has the meaning ascribed to it in NRS 482.087.~~

~~(b) "Provider", "provider of health care" has the meaning ascribed to it in NRS 629.031.~~

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 441.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 787.

AN ACT relating to education; revising provisions relating to programs of distance education; establishing provisions relating to charter schools for distance education; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a school district or charter school to provide a program of distance education if the school district or charter school satisfies certain requirements. (NRS 388.838) **Sections 6-14** of this bill establish provisions for a charter school to operate exclusively as a charter school for distance education. **Section 11** of this bill authorizes a charter school sponsored by the State Public Charter School Authority or a committee to form a charter school or charter management organization that has applied for sponsorship from the Authority to apply to the Authority for authorization to operate as a charter school for distance education. **Section 11** requires a charter school, committee to form a charter school or charter management organization to satisfy certain requirements to be authorized as a charter school for distance education. **Section 11** also requires a charter contract to operate a charter school for distance education to include certain provisions. **Section 12** of this bill authorizes a charter school for distance education to use certain methods to collect certain information. **Section 13** of this bill designates the Authority as the local educational agency for all charter schools for distance education sponsored by the Authority and authorizes the ~~Authority~~ **Department of Education** to deem a charter school for distance education sponsored by the Authority a local educational agency. **Section 14** of this bill requires the ~~Authority~~ **Department** to adopt certain regulations. **Section 15** of this bill provides that a charter school that has an existing written charter or charter contract with the Authority to operate a program of distance education entered into on or before July 31, 2019, is deemed a charter school for distance education.

Existing law requires a pupil who wishes to enroll full-time in a program of distance education to receive permission from the board of trustees of the school district where the pupil resides. (NRS 388.854) **Section 3** of this bill removes that requirement. **Section 5** of this bill prohibits a charter school sponsored by a school district that offers a full-time program of distance education from enrolling a pupil in the program who resides outside that school district.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 388.854 is hereby amended to read as follows:

388.854 1. ~~Before a pupil may enroll full time in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Except as otherwise provided in NRS 388.850 or other specific statute, a board of trustees from whom permission is requested pursuant to this subsection shall grant the requested permission.~~

~~2.~~ A pupil who enrolls part-time in a program of distance education that is provided by a school district other than the school district in which the pupil resides or that is provided by a charter school is not required to obtain the approval of the board of trustees of the school district in which the pupil resides.

~~3.~~ If the board of trustees of a school district grants permission for a pupil to enroll full time in a program of distance education pursuant to subsection 1 or if

2. *If* a pupil enrolls part-time in a program of distance education pursuant to subsection ~~2.~~ 1, the board of trustees of the school district in which the pupil resides shall enter into a written agreement with the board of trustees of the school district or the governing body of the charter school, as applicable, that provides the program of distance education. ~~If the pupil enrolls part time in a program of distance education, the~~ **The** agreement must include, without limitation, the amount of the apportionment provided to the school district where the pupil resides that will be allocated pursuant to paragraph (a) of subsection 2 of NRS 387.124 to the school district or charter school, as applicable, that provides the program of distance education.

~~4.~~ 3. A separate agreement must be prepared for each year that a pupil enrolls *part-time* in a program of distance education. ~~If permission is granted pursuant to subsection 1, the written agreement required by this subsection is not a condition precedent to the pupil's enrollment in the program of distance education.~~

~~5.~~ 4. If the school district in which the pupil resides and the board of trustees of the school district or governing body of the charter school, as applicable, that provides the program of distance education in which the pupil is enrolled part-time are unable to reach an agreement as required pursuant to subsection ~~3.~~ 2, the Superintendent of Public Instruction will determine the amount of the apportionment which the school district where the pupil resides will be required to allocate pursuant to paragraph (a) of subsection 2 of NRS 387.124 to the school district or charter school, as applicable, that provides the program of distance education.

Sec. 4. Chapter 388A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 14, inclusive, of this act.

Sec. 5. *A charter school that is sponsored by a school district and that offers a full-time program of distance education may not enroll a pupil in the program who does not reside in that school district.*

Sec. 6. *As used in sections 6 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7. *“Charter school for distance education” means a charter school that provides a full-time program of distance education.*

Sec. 8. *“Course of distance education” has the meaning ascribed to it in NRS 388.823.*

Sec. 9. *“Distance education” has the meaning ascribed to it in NRS 388.826.*

Sec. 10. *“Program of distance education” has the meaning ascribed to it in NRS 388.829.*

Sec. 11. 1. *A charter school that is sponsored by the State Public Charter School Authority, or a committee to form a charter school or charter management organization that has submitted an application to be sponsored by the State Public Charter School Authority, may apply to the State Public Charter School Authority for authorization to operate as a charter school for distance education. The charter school, committee to form a charter school or charter management organization shall include in its application to the State Public Charter School Authority a description of:*

*(a) The support available to each pupil, in his or her home or community, including, without limitation, the availability and frequency of interactions between the pupil and teachers;*

*(b) The methods the charter school for distance education will use to administer any test, exam or assessment required by state or federal law;*

*(c) The methods the charter school for distance education will use to assess the academic success of pupils; and*

*(d) The criteria pupils must meet to be eligible for enrollment at the charter school for distance education and the process for accepting pupils.*

2. *The State Public Charter School Authority may authorize:*

*(a) A charter school to operate as a charter school for distance education if the charter school satisfies the requirements of subsection 1.*

*(b) A committee to form a charter school or a charter management organization to form or operate, as applicable, a charter school for distance education if the committee to form a charter school or charter management organization satisfies the requirements of subsection 1 and of subsection 3 of NRS 388A.249.*

3. *The State Public Charter School Authority shall adopt a standard charter contract that meets the requirements for charter contracts pursuant to NRS 388A.270 to be used for each charter school for distance education.*

4. *In addition to any other provisions required by law, a charter contract to operate a charter school for distance education entered into on or after July 31, 2019, must include a description of:*

*(a) The support available to each pupil, in his or her home or community, including, without limitation, the availability and frequency of interactions between the pupil and teachers;*

*(b) The methods the charter school for distance education will use to administer any test, exam or assessment required by state or federal law;*

*(c) The methods the charter school for distance education will use to assess the academic success of pupils; and*

*(d) The criteria pupils must meet to be eligible for enrollment at the charter school for distance education and the process for accepting pupils.*

Sec. 12. *For the purposes of collecting the information required pursuant to NRS 385A.240 on the attendance, truancy and transiency of pupils, a charter school for distance education may consider the following information:*

1. *The amount of time each pupil spends on a computer, television, Internet website or other means of communication used to administer the program of distance education.*

2. *The progress of each pupil in completing tasks during a specific period of time.*

3. *The number of lessons and units completed by each pupil.*

Sec. 13. 1. *Except as otherwise provided in subsection 2, the State Public Charter School Authority is hereby deemed a local educational agency for all charter schools for distance education which are sponsored by the State Public Charter School Authority.*

2. *The ~~[State Public Charter School Authority]~~ Department may adopt regulations to deem a charter school for distance education sponsored by the State Public Charter School Authority a local educational authority. Such a determination must be made on or before March 1 of each even-numbered year and does not become effective until July 1 of the next even-numbered year.*

Sec. 14. *The ~~[State Public Charter School Authority]~~ Department shall adopt any regulations necessary to carry out the provisions of sections 5 to 14, inclusive, of this act, including, without limitation, regulations for:*

1. *The delegation of oversight responsibilities to any subcommittee of the State Public Charter School Authority.*

2. *Establishing different requirements for the operation or regulation of or any other matter that requires the different treatment of charter schools for distance education sponsored by the State Public Charter School Authority and traditional charter schools sponsored by the State Public Charter School Authority.*

3. *Determining when a pupil enrolled at a charter school for distance education may be suspended or expelled from such charter school pursuant*

*to NRS 388A.495 for failing to actively participate in the charter school for distance education.*

**Sec. 15.** 1. A charter school sponsored by the State Public Charter School Authority that operates a full-time program of distance education that has an existing written charter or charter contract, as applicable, with the State Public Charter School Authority before July 31, 2019, shall be deemed to be a charter school for distance education that has entered into a charter contract with the State Public Charter School Authority on or after July 31, 2019.

2. The current written charter or charter contract, as applicable, of a charter school deemed to be a charter school for distance education pursuant to this section shall remain in effect until the expiration of the written charter or charter contract, as applicable, unless the written charter is revoked or the charter contract is terminated pursuant to NRS 388A.300.

**Sec. 16.** This act becomes effective upon passage and approval.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:16 p.m.

#### ASSEMBLY IN SESSION

At 2:21 p.m.

Mr. Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Senate Bill No. 453 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

#### SECOND READING AND AMENDMENT

Senate Bill No. 461.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 718.

AN ACT relating to taxation; imposing a surcharge on lodging within the Tahoe Township in Douglas County; authorizing the Tahoe-Douglas Visitor's Authority to take certain actions respecting the establishment and operation of ~~recreational facilities;~~ **a multiuse event and convention center;** authorizing

the Authority to issue certain municipal securities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Tahoe-Douglas Visitor's Authority to use a portion of the proceeds of the occupancy tax on the rental of lodgings in the Tahoe Township of Douglas County exclusively for: (1) the advertising, publicizing and promotion of tourism and recreation; and (2) the planning, construction and operation of a convention center in the Township. (Section 26 of chapter 496, Statutes of Nevada 1997, at p. 2378)

**Section 2** of this bill establishes a \$5 tourism surcharge on the per-night charge for the rental of lodgings in the Township. **Sections 1 and 4-12** of this bill make conforming changes.

**Section 3** of this bill enacts provisions to govern the issuance of municipal securities by the Authority, which are based on the provisions of existing law governing the issuance of bonds by county fair and recreation boards. **Section 3** authorizes the Authority to take certain actions in connection with the acquisition, improvement and operation of ~~recreational facilities,~~ **a multiuse event and convention center** in the Township. **Sections 3 and 13** of this bill authorize the Authority to issue municipal securities for the acquisition of such ~~recreational facilities,~~ **a multiuse event and convention center**, to be payable from the net revenues of such ~~recreational facilities,~~ **a multiuse event and convention center**, the occupancy tax, the tourism surcharge and any other revenue which may be legally made available for the payment of such bonds. **Section 13** also authorizes a portion of the proceeds of the occupancy tax and the tourism surcharge to be allocated to pay the costs to administer and collect the tourism surcharge, with the remaining proceeds to be used exclusively to pay the principal and interest on the municipal securities issued by the Authority.

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

**Section 1.** The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto a new section to be designated as section 15.5, immediately following section 15, to read as follows:

*Sec. 15.5. "Tourism surcharge" means the surcharge on lodging imposed by section 19.5 of this act.*

**Sec. 2.** The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto a new section to be designated as section 19.5, immediately following section 19, to read as follows:

*Sec. 19.5. 1. There is hereby imposed a tourism surcharge of \$5 on the per night charge for the rental of lodgings in the Township. The tourism surcharge must not be applied for any time during which the*

*lodgings are provided to a guest free of charge. The governing body shall administer the tourism surcharge.*

*2. Every vendor who furnishes any lodgings within the Township is exercising a taxable privilege.*

*3. A vendor is not exempt from the tourism surcharge because the taxable premises are at any time located in a political subdivision other than the municipality.*

**Sec. 3.** The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto new sections to be designated as sections 27, 28, 29, 30, 31 and 32 immediately following section 26, to read as follows:

*Sec. 27. In addition to powers elsewhere conferred, the Authority is authorized and empowered:*

*1. To establish, construct, purchase, lease, enter into a lease purchase agreement respecting, rent, acquire by gift, grant, bequest, devise, or otherwise acquire, reconstruct, improve, extend, better, alter, repair, equip, furnish, regulate, maintain, operate and manage ~~recreational facilities~~ a multiuse event and convention center in the Township, including personal property, real property, lands, improvements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years.*

*2. To insure or provide for the insurance of ~~any recreational facility~~ a multiuse event and convention center against such risks and hazards as the Authority may deem advisable.*

*3. To arrange or contract for the furnishing by any person, agency, association or corporation, public or private, of services, privileges, works or facilities for, or in connection with, a ~~recreational facility~~ multiuse event and convention center and to hire and retain officers, agents and employees, including a fiscal adviser, engineers, attorneys or other professional or specialized personnel.*

*4. To sell, lease, exchange, transfer, assign or otherwise dispose of any real or personal property, or any interest therein acquired for the purpose of this act, including the lease of ~~any recreational facility~~ a multiuse event and convention center acquired by the Authority pursuant to this act, which is to be operated and maintained as a public project and ~~recreational facility~~ multiuse event and convention center.*

*5. To fix, and from time to time increase or decrease, rates, tolls or charges for services or facilities furnished in connection with ~~any recreational facility~~ a multiuse event and convention center, and to take such action as necessary or desirable to effect their collection, and, with the consent of the governing body, to provide for the levy by the governing body of ad valorem taxes, the proceeds thereof to be used in*



connection with the ~~recreational facilities,~~ multiuse event and convention center.

6. To receive, control, invest and order the expenditure of any and all moneys and funds pertaining to ~~any recreational facility,~~ the multiuse event and convention center or related properties, including, but not limited to, annual grants to the State, the county and incorporated cities in the county for capital improvements for ~~recreational facilities,~~ the multiuse event and convention center.

7. To enter into contracts, leases or other arrangements for commercial advertising purposes with any person, partnership or corporation.

8. To exercise all or any part or combination of the powers herein granted to the Authority, except as herein otherwise provided.

9. To sue and be sued.

10. To do and perform any and all other acts and things necessary, convenient, desirable or appropriate to carry out the provisions of this act.

Sec. 28. The Authority, in addition to the other powers conferred upon the Authority pursuant to this act, may:

1. Set aside a fund in an amount that it considers necessary and which may be expended in the discretion of the Authority to promote or attract conventions, meetings and like gatherings that will utilize the ~~recreational facilities,~~ multiuse event and convention center authorized by section 27 of this act. The expenditure is hereby declared to be an expenditure made for a public purpose.

2. Solicit and promote tourism and gaming generally, both individually and through annual grants in cash or in kind, including lease of its facilities to nonprofit groups or associations, and further promote generally the use of its facilities, pursuant to lease agreements, by organized groups or by the general public for the holding of conventions, expositions, trade shows, entertainment, sporting events, cultural activities or similar uses reasonably calculated to produce revenue for the Authority and to enhance the general economy. The promotion of tourism, gaming or the use of facilities may include advertising the facilities under control of the Authority and the resources of the community or area, including tourist accommodations, transportation, entertainment, gaming and climate. The advertising may be done jointly with a private enterprise.

3. Enter into contracts for advertising pursuant to this act and pay the cost of the advertising, including a reasonable commission.

4. Borrow money or accept contributions, grants or other financial assistance from the Federal Government or any agency or instrumentality thereof, corporate or otherwise, for or in aid of ~~any recreational facility,~~ a multiuse event and convention center within the Township, and to comply with such conditions, trust indentures, leases

or agreements as may be necessary, convenient or desirable. The purpose and intent of this section is to authorize the Authority to do any and all things necessary, convenient or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, acquisition, construction, maintenance or operation of ~~any recreational facility~~ a multiuse event and convention center within the Township.

Sec. 29. 1. For the acquisition of ~~any recreational facilities~~ a multiuse event and convention center authorized in section 27 of this act, the Authority, at any time or from time to time may in the name of and on behalf of the Authority, issue municipal securities:

(a) Payable from the net revenues to be derived from the operation of such ~~recreational facilities~~ a multiuse event and convention center;

(b) Secured by a pledge of revenues from the occupancy tax;

(c) Secured by a pledge of revenues from the tourism surcharge;

(d) Secured by revenue to be received by the Authority from any political subdivision of the State pursuant to a loan, note, agreement or any other obligation;

(e) Secured by any other revenue that may be legally made available for their payment; or

(f) Payable or secured by any combination of paragraph (a), (b), (c), (d) or (e), and any or all of such revenues shall be deemed pledged revenues as that term is defined in NRS 350.550.

2. Municipal securities issued pursuant to this act must be authorized by resolution of the Authority, and no further approval by any person, board or commission is required.

3. All determinations of the Authority under this act shall be deemed to be conclusive, absent fraud or a gross abuse of discretion.

Sec. 30. The provisions of the Local Government Securities Law shall apply to the issuance by the Authority of any municipal securities pursuant to this act. Any such municipal securities must be executed in the manner provided in the Local Government Securities Law, but the securities must also bear the manual or facsimile signature of an officer of the Authority, or some other person specifically authorized by the Authority to sign the securities.

Sec. 31. The Authority is authorized to sell such municipal securities from time to time in the manner prescribed in NRS 350.105 to 350.195, inclusive, and may employ legal, fiscal, engineering or other expert services in connection with the acquisition, improvement, extension or betterment of the ~~improvements or facilities~~ multiuse event and convention center and with the authorization, issuance and sale of the municipal securities.

Sec. 32. In order to insure the payment of the municipal securities of the Authority, the payment of which is secured or is additionally secured, as the case may be, by a pledge of the revenues of the

~~recreational facilities,~~ **multiuse event and convention center, of any such other income-producing project and of any such excise taxes, as provided in section 29 of this act, or other such special obligation securities so secured, the Authority may establish and maintain, and from time to time revise, a schedule or schedules of fees, rates and charges for services, facilities and commodities rendered by or through the ~~recreational facilities,~~ multiuse event and convention center, and any such other income-producing project and a schedule or schedules of any such excise taxes, as the case may be, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the Authority or governing body authorizing the issuances of any of the municipal securities, including any covenant for the establishment of reasonable reserve funds.**

**Sec. 4.** Section 3 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended to read as follows:

Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in the Local Government Securities Law, but the definitions in sections 4 to 18, inclusive, **and section 15.5** of this act, unless the context otherwise requires, govern the construction of this act and of the Local Government Securities Law as applied to the Township.

**Sec. 5.** Section 7 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 7. "Gross taxable rent" means the total amount of rent paid for lodging, including any associated charges that are normally included in the rent ~~+~~, **including, without limitation, resort fees or similar mandatory fees or charges directly related to the occupancy of transient lodgings, but not including the tourism surcharge.**

**Sec. 6.** Section 11 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 11. "Occupancy tax" means the tax on lodging imposed by **section 19** of this act.

**Sec. 7.** Section 14 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 14. "Rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to ~~the~~ **the occupancy tax and tourism surcharge** authorized in this act.

**Sec. 7.5.** Section 20 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2377, is hereby amended to read as follows:

Sec. 20. 1. The Tahoe-Douglas Visitor's Authority, consisting of five members, is hereby created.

2. The Authority consists of:

(a) One member appointed by the Board of County Commissioners from among their number; and

(b) Four members who are representatives of the Association of Gaming Establishments whose members collectively paid the largest amount of license fees to the State pursuant to NRS 463.370 in the County in the preceding year, chosen by the board from a list of nominees submitted by the Association. If there is no such association, the four members so appointed must be representatives of gaming licensees.

↳ Each member of the Authority must be a resident of the County.

3. The terms of members appointed pursuant to paragraph (b) of subsection 2 are 4 years. Each member appointed pursuant to paragraph (b) of subsection 2 may succeed himself or herself only twice.

4. If a member ceases to be engaged in the business or occupation which the member was appointed to represent, he or she ceases to be a member, and another person engaged in that business or occupation must be appointed for the unexpired term.

**5. *Members of the Authority may enter into contracts, leases, franchises and other transactions extending beyond their terms of office as members of the Authority.***

**Sec. 8.** Section 21 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2377, is hereby amended to read as follows:

Sec. 21. 1. The municipality may provide that the occupancy tax ***or tourism surcharge*** does not apply:

(a) If a vendee:

(1) Has been a permanent resident of the taxable premises for a period of at least 28 consecutive days; or

(2) Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 28 consecutive days;

(b) If the rent paid by a vendee is less than \$2 a day;

(c) To lodgings at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;

(d) To clinics, hospitals or other medical facilities;

(e) To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; ***or***

(f) ~~If the taxable premises does not have at least three rooms or three other units of accommodations for lodging; or~~

~~(g)~~ To all or any combination of events or conditions provided in paragraphs (a) to ~~+(f)~~ (e), inclusive.

2. The occupancy tax ~~does~~ **and tourism surcharge do** not apply to:

(a) Lodgings at institutions of the Federal Government, the State, the municipality or any other public body.

(b) The rental of any lodgings by an employee of the Federal Government, the State or a political subdivision of the State, if the transaction is conducted directly with the governmental entity pursuant to a governmental credit card or a contract, purchase order or similar document executed or authorized by an appropriate official of the governmental entity.

3. ***Any ordinance adopted pursuant to this act by the municipality before July 1, 2019, relating to the occupancy tax shall, by operation of law, apply to the tourism surcharge in the same manner as it applies to the occupancy tax.***

**Sec. 9.** Section 22 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 22. 1. Every vendor providing lodging in the Township shall collect the **occupancy tax and tourism surcharge** and shall act as a trustee therefor.

2. Every vendor providing lodging in the Township shall remit the proceeds of the occupancy tax **and tourism surcharge** to the governing body.

3. The **occupancy tax and tourism surcharge** must be charged separately from the rent fixed by the vendor for the lodgings.

**Sec. 10.** Section 23 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 23. 1. The governing body may provide by ordinance that:

(a) The payment of the occupancy tax **or tourism surcharge** pertaining to any lodgings is secured by a lien on the real property at the taxable premises where the lodgings are located;

(b) Any such lien securing the payment of a delinquent occupancy tax **or tourism surcharge** may be enforced in the same manner as liens for general taxes ad valorem on real property; and

(c) A vendor is liable for the payment of the proceeds of any occupancy tax **and tourism surcharge** which pertains to the vendor's taxable premises and which the vendor failed to remit to the municipality, because of the vendor's failure to collect the **occupancy tax and tourism surcharge** or otherwise.

2. The governing body may provide for a civil penalty for any such failure in an amount of not more than 10 percent of the amount which was not remitted to the municipality but not less than \$10.

3. The municipality may bring an action in the district court for the collection of any amounts due, including, without limitation, penalties thereon, interest on the unpaid principal at a rate not exceeding 1 percent per month, the costs of collection and reasonable attorney's fees incurred in connection therewith, except for any tax *or surcharge* being collected by the enforcement of a lien pursuant to subsection 1.

**Sec. 11.** Section 24 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 24. The governing body may provide by ordinance for penalties not to exceed 90 days' imprisonment or a \$300 fine for a failure by any person to pay the *occupancy tax* ~~+~~ *and tourism surcharge*, to remit the proceeds thereof to the municipality or to account properly for any lodging and the *occupancy tax and tourism surcharge* proceeds pertaining thereto.

**Sec. 12.** Section 25 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 25. The governing body may provide by ordinance, except as limited by or otherwise provided in this act:

1. A procedure for licensing each vendor and for refusing to license a vendor after an opportunity has been given to the vendor for a public hearing by the governing body concerning the issuance of the license;

2. The times, place and method for the payment of the *occupancy tax and tourism surcharge* to the municipality, the account and other records to be maintained in connection therewith, a procedure for making refunds and resolving disputes relating to the *occupancy tax* ~~+~~ *and tourism surcharge*, including exemptions pertaining thereto, the preservation and destruction of records and their inspection and investigation, and, subject to the provisions of subsection 1 of section 23 of this act, a procedure of liens and sales to satisfy such liens; and

3. Other rights, privileges, powers and immunities and other details relating to any licenses, the collection of the occupancy tax *and tourism surcharge* and the remittance of the proceeds thereof to the municipality.

**Sec. 13.** Section 26 of the Tahoe-Douglas Visitors' Authority Act, being chapter 496, Statutes of Nevada 1997, as amended by chapter 496, Statutes of Nevada 1997, at page 2379, is hereby amended to read as follows:

Sec. 26. 1. From the proceeds of the occupancy tax *and the tourism surcharge* paid by vendors located in the township, the governing body shall:

(a) Pay the principal of, interest on and any prior redemption premiums due in connection with any securities issued by the county pursuant to the Douglas County Lodgers Tax Law which were secured with the proceeds of the occupancy tax collected pursuant to the Douglas County Lodgers Tax Law.

(b) After allocation of those proceeds pursuant to paragraph (a), pay any obligations incurred before July 1, 1997, pursuant to any contractual agreements between the governing body and the Lake Tahoe Visitor's Authority.

2. A portion of the proceeds of the occupancy tax *and the tourism surcharge* paid by vendors located in the Township, not to exceed 1 percent of the amount collected, may be used to collect and administer the *occupancy tax* ~~and~~ *and the tourism surcharge*.

3. One-eighth of the proceeds of the occupancy tax paid by vendors located in the Township must be remitted to the Authority.

4. After allocation pursuant to subsections 1, 2 and 3 of the proceeds of the occupancy tax paid by vendors located in the Township, the remaining proceeds must be allocated as follows:

(a) Except as otherwise provided in paragraph (b), for each Fiscal Year beginning on or after July 1, 1999, 50 percent of those proceeds must be retained by the governing body for expenditure in any manner authorized for the expenditure of the proceeds of a tax imposed pursuant to the Douglas County Lodgers Tax Law and 50 percent of those proceeds must be remitted to the Authority.

(b) Except as otherwise provided in paragraph (c), for each Fiscal Year beginning on or after July 1, 2000, the governing body shall revise the allocation required pursuant to this subsection in such a manner that the amount of those proceeds retained by the governing body is reduced, and the amount remitted to the Authority is increased, from the amounts for the prior fiscal year by not less than 2 percent and not more than 5 percent of the total amount of the proceeds allocated pursuant to this subsection, until the amount retained by the governing body for each fiscal year equals 35 percent of those proceeds and the amount remitted to the Authority for each fiscal year equals 65 percent of those proceeds.

(c) The governing body may, for not more than one of the Fiscal Years beginning on or after July 1, 2000, elect not to make a revision otherwise required pursuant to paragraph (b).

5. *After allocation pursuant to subsections 1 and 2 of the proceeds of the tourism surcharge paid by vendors located in the Township, the remaining proceeds must be remitted to the Authority.*

6. The proceeds remitted to the Authority pursuant to subsections 3, ~~and~~ 4 *and* 5 must be used exclusively for:

(a) The advertising, publicizing and promotion of tourism and recreation; ~~and~~

(b) The planning, construction and operation of a *multiuse event and* convention center in the Township ~~and~~; *and*

(c) *The payment of principal and interest on the municipal securities issued pursuant to section 29 of this act.*

Sec. 14. This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 463.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 765.

AN ACT relating to coroners; authorizing a coroner to test a decedent for communicable diseases without a court order under certain circumstances; authorizing a coroner to establish certain programs; authorizing a coroner to subpoena certain documents, records and materials; providing that funds from the account for the support of the office of the county coroner can be used to pay expenses relating to certain programs; requiring a postmortem examination be performed by a forensic pathologist under certain circumstances; increasing certain fees for the support of the office of the county coroner; making various other changes relating to coroners; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law sets forth the duties and responsibilities of a county coroner. (Chapter 259 of NRS) Existing law provides that certain persons, including the county coroner, may petition a court for an order requiring the testing of a person or decedent for exposure to a communicable disease if the decedent may have exposed the person or the person's employees to a communicable disease. (NRS 441A.195) **Section 3** of this bill authorizes a coroner to test a decedent under his or her jurisdiction for communicable diseases without obtaining such a court order if: (1) the coroner or any employees of the coroner came in contact with the blood or bodily fluids of the decedent; ~~or~~ (2) a law enforcement officer, emergency medical attendant or firefighter came in contact with the blood or bodily fluids of the decedent before the decedent came under the jurisdiction of the coroner; ~~or~~ **(3) any other person came in contact with the blood or bodily fluids of the decedent while rendering care or assistance in an emergency before the decedent came under the jurisdiction of the coroner.**

Existing law authorizes a county coroner to use the money in the account created for the support of the office of the county coroner to pay expenses relating to: (1) certain training; (2) the purchase of certain specialized equipment; and (3) youth programs involving the office of the county coroner. (NRS 259.025) **Section 4** of this bill authorizes a county coroner to create: (1) a program to promote the mental health of the employees of the county coroner and any ~~other~~ person impacted as a result of **providing services in his or her professional capacity in response to** an incident involving mass casualties within the county; and (2) a program that provides bereavement



services to members of the public. **Section 5** of this bill authorizes the county coroner to pay expenses relating to those programs with money from the account.

Existing law requires a coroner to conduct an investigation when the coroner or a coroner's deputy is informed that a person has been killed, has committed suicide or has suddenly died under such circumstances as to afford reasonable ground to suspect that the death has been occasioned by unnatural means. (NRS 259.050) **Section 6** of this bill authorizes a coroner conducting such an investigation to subpoena the production of any documents, records or materials directly related or believed to contain evidence related to an investigation of the coroner. **Section 6** also provides that where it is apparent or can be reasonably inferred that a death may have been caused by drug use or poisoning, the coroner shall cause a postmortem examination to be performed by a forensic pathologist, unless the death occurred following a hospitalization stay of 24 hours or more.

**Section 2** of this bill provides that when a forensic pathologist performs a postmortem examination at the direction of a coroner, the forensic pathologist shall determine the cause of death and the certifier of death shall record the cause of death as determined by the forensic pathologist on the certificate of death.

Existing law requires the State Registrar to charge and collect a fee for a certified copy of a certificate of death and provides that the fee must include \$1 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates. (NRS 440.700) **Section 7** of this bill increases the fee from \$1 to \$4.

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

**Section 1.** Chapter 259 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2.** *If a forensic pathologist performs a postmortem examination on a body under the jurisdiction of the coroner:*

*1. The forensic pathologist shall determine the cause of death of the decedent; and*

*2. The certifier of death shall record on the death certificate the exact cause of death as determined by the forensic pathologist.*

**Sec. 3.** *1. The coroner may cause a decedent under the jurisdiction of the coroner to be tested for communicable diseases without obtaining a court order if:*

*(a) A law enforcement officer, emergency medical attendant or firefighter came in contact with the blood or bodily fluids of the decedent in the course of his or her official duties before the decedent came under the jurisdiction of the coroner; ~~or~~*

*(b) The coroner or an employee of the coroner comes in contact with the blood or bodily fluids of a decedent in the course of his or her official duties ~~and~~; or*

*(c) Any other person came in contact with the blood or bodily fluids of the decedent while rendering care or assistance in an emergency before the decedent came under the jurisdiction of the coroner.*

*2. The coroner shall report the results of any test conducted pursuant to subsection 1 to the local health officer.*

**Sec. 4.** A coroner may establish:

*1. A program to promote the mental health of ~~the~~;*

*(a) The employees of the office of the coroner; and ~~any other~~*

*(b) Any person impacted as a result of providing services in his or her professional capacity in response to an incident involving mass casualties within the county.*

*2. A program that provides bereavement services to members of the public within the county.*

**Sec. 4.5.** NRS 259.010 is hereby amended to read as follows:

259.010 1. Every county in this State constitutes a coroner's district, except a county where a coroner is appointed pursuant to the provisions of NRS 244.163.

2. The provisions of this chapter, except NRS 259.025, 259.045, *subsections 3 and 4 of NRS 259.050*, and NRS 259.150 to 259.180, inclusive, *and sections 2, 3 and 4 of this act* do not apply to any county where a coroner is appointed pursuant to the provisions of NRS 244.163.

**Sec. 5.** NRS 259.025 is hereby amended to read as follows:

259.025 1. The board of county commissioners of each county may create in the county general fund an account for the support of the office of the county coroner. The county treasurer shall deposit in that account the money received from:

(a) The State Registrar of Vital Statistics pursuant to NRS 440.690; and

(b) A district health officer pursuant to NRS 440.715.

2. The money in the account must be accounted for separately and not as a part of any other account.

3. The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account.

4. Claims against the account must be paid as other claims against the county are paid.

5. Except as otherwise provided in subsection 8, the county coroner may use the money in the account to pay expenses relating to:

(a) A youth program involving the office of the county coroner, including, without limitation, a program of visitation established pursuant to NRS 62E.720;

(b) Training for a member of the staff of the office of the county coroner;

(c) Training an ex officio coroner and his or her deputies on the investigation of deaths; ~~and~~

(d) The purchase of specialized equipment for the office of the county coroner ~~†~~; *and*

(e) *Any program established by the coroner pursuant to section 4 of this act.*

6. Any money remaining in the account at the end of any fiscal year does not revert to the county general fund and must be carried forward to the next fiscal year.

7. Before the end of each fiscal year:

(a) The board of county commissioners of each county that constitutes a coroner's district pursuant to NRS 259.010 and which has created an account for the support of the office of the county coroner pursuant to subsection 1 shall designate the office of a county coroner created pursuant to NRS 244.163 to receive the money in the account.

(b) The county treasurer of each county that constitutes a coroner's district pursuant to NRS 259.010 and for which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to subsection 1 shall transfer all money in the account to the county treasurer of the county in which the office of the county coroner designated pursuant to paragraph (a) is established.

(c) The county treasurer of the county in which the office of the county coroner designated pursuant to paragraph (a) is established shall:

(1) Deposit all the money received pursuant to paragraph (b) into the account created in that county pursuant to subsection 1; and

(2) Account for the money received from each county in separate subaccounts.

8. The office of the county coroner designated to receive money pursuant to subsection 7 may only use the money in each subaccount and any interest attributable to that money to pay expenses which are incurred in the county from which the money was transferred and which relate to the training of an ex officio coroner and his or her deputies on the investigation of deaths.

**Sec. 6.** NRS 259.050 is hereby amended to read as follows:

259.050 1. When a coroner or the coroner's deputy is informed that a person has been killed, has committed suicide or has suddenly died under such circumstances as to afford reasonable ground to suspect that the death has been occasioned by unnatural means, the coroner shall make an appropriate investigation.

2. In all cases where it is apparent or can be reasonably inferred that the death may have been caused by a criminal act, the coroner or the coroner's deputy shall notify the district attorney of the county where the inquiry is made, and the district attorney shall make an investigation with the assistance of the coroner. If the sheriff is not ex officio the coroner, the coroner shall also notify the sheriff, and the district attorney and sheriff shall make the investigation with the assistance of the coroner.

3. *If it is apparent to or can be reasonably inferred by the coroner that a death may have been caused by drug use or poisoning, the coroner shall*

*cause a postmortem examination to be performed on the decedent by a forensic pathologist unless the death occurred following a hospitalization stay of 24 hours or more.*

**4. A coroner may issue a subpoena for the production of any document, record or material that is directly related or believed to contain evidence related to an investigation by the coroner.**

5. The holding of a coroner's inquest is within the sound discretion of the district attorney or district judge of the county. An inquest need not be conducted in any case of death manifestly occasioned by natural cause, suicide, accident, motor vehicle crash or when it is publicly known that the death was caused by a person already in custody, but an inquest must be held unless the district attorney or a district judge certifies that no inquest is required.

~~4-1~~ 6. If an inquest is to be held, the district attorney shall call upon a justice of the peace of the county to preside over it. The justice of the peace shall summon three persons qualified by law to serve as jurors, to appear before the justice of the peace forthwith at the place where the body is or such other place within the county as may be designated by him or her to inquire into the cause of death.

~~5-1~~ 7. A single inquest may be held with respect to more than one death, where all the deaths were occasioned by a common cause.

**Sec. 7.** NRS 440.700 is hereby amended to read as follows:

440.700 1. Except as otherwise provided in this section, the State Registrar shall charge and collect a fee in an amount established by the State Registrar by regulation:

- (a) For searching the files for one name, if no copy is made.
- (b) For verifying a vital record.
- (c) For establishing and filing a record of paternity, other than a hospital-based paternity, and providing a certified copy of the new record.
- (d) For a certified copy of a record of birth.
- (e) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (f) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.
- (g) For correcting a record on file with the State Registrar and providing a certified copy of the corrected record.
- (h) For replacing a record on file with the State Registrar and providing a certified copy of the new record.
- (i) For filing a delayed certificate of birth and providing a certified copy of the certificate.
- (j) For the services of a notary public, provided by the State Registrar.
- (k) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State.

(l) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.

(m) For compiling data files which require specific changes in computer programming.

2. The fee collected for furnishing a copy of a certificate of birth or death must include the sum of \$3 for credit to the Children's Trust Account created by NRS 432.131.

3. The fee collected for furnishing a copy of a certificate of death must include the sum of \$1 for credit to the Review of Death of Children Account created by NRS 432B.409.

4. The fee collected for furnishing a copy of a certificate of death must include the sum of 50 cents for credit to the Grief Support Trust Account created by NRS 439.5132.

5. The State Registrar shall not charge a fee for furnishing a certified copy of a record of birth to:

(a) A homeless person who submits a signed affidavit on a form prescribed by the State Registrar stating that the person is homeless.

(b) A person who submits documentation from the Department of Corrections verifying that the person was released from prison within the immediately preceding 90 days.

6. The fee collected for furnishing a copy of a certificate of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 must include the sum of ~~+\$1~~ \$4 for credit to the account for the support of the office of the county coroner of the county in which the certificate originates.

7. Upon the request of any parent or guardian, the State Registrar shall supply, without the payment of a fee, a certificate limited to a statement as to the date of birth of any child as disclosed by the record of such birth when the certificate is necessary for admission to school or for securing employment.

8. The United States Bureau of the Census may obtain, without expense to the State, transcripts or certified copies of births and deaths without payment of a fee.

**Sec. 8.** NRS 441A.195 is hereby amended to read as follows:

441A.195 1. ~~1A~~ *Except as otherwise provided in section 3 of this act,* a law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees or volunteers, any other person who is employed by or is a volunteer for an agency of criminal justice or any other public employee or volunteer for a public agency who, in the course of his or her official duties, comes into contact with human blood or bodily fluids, or the employer of such a person or the public agency for which the person volunteers, may petition a court for an order requiring the testing of a person or decedent for exposure to a communicable disease if the person or decedent may have exposed the officer, emergency medical attendant, firefighter, county coroner or medical examiner

or their employee or volunteer, other person employed by or volunteering for an agency of criminal justice or other public employee or volunteer for a public agency to a communicable disease.

2. When possible, before filing a petition pursuant to subsection 1, the person, employer or public agency for which the person volunteers, and who is petitioning shall submit information concerning the possible exposure to a communicable disease to the designated health care officer for the employer or public agency or, if there is no designated health care officer, the person designated by the employer or public agency to document and verify possible exposure to communicable diseases, for verification that there was substantial exposure. Each designated health care officer or person designated by an employer or public agency to document and verify possible exposure to communicable diseases shall establish guidelines based on current scientific information to determine substantial exposure.

3. A court shall promptly hear a petition filed pursuant to subsection 1 and determine whether there is probable cause to believe that a possible transfer of blood or other bodily fluids occurred between the person who filed the petition or on whose behalf the petition was filed and the person or decedent who possibly exposed him or her to a communicable disease. If the court determines that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred and, that a positive result from the test for the presence of a communicable disease would require the petitioner to seek medical intervention, the court shall:

(a) Order the person who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease to submit two appropriate specimens to a local hospital or medical laboratory for testing for exposure to a communicable disease; or

(b) Order that two appropriate specimens be taken from the decedent who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease and be submitted to a local hospital or medical laboratory for testing for exposure to the communicable disease.

➔ The local hospital or medical laboratory shall perform the test in accordance with generally accepted medical practices and shall disclose the results of the test in the manner set forth in NRS 629.069.

4. If a judge or a justice of the peace enters an order pursuant to this section, the judge or justice of the peace may authorize the designated health care officer or the person designated by the employer or public agency to document and verify possible exposure to a communicable disease to sign the name of the judge or justice of the peace on a duplicate order. Such a duplicate order shall be deemed to be an order of the court. As soon as practicable after the duplicate order is signed, the duplicate order must be returned to the judge or justice of the peace who authorized the signing of it and must indicate on its face the judge or justice of the peace to whom it is to be returned. The judge or justice of the peace, upon receiving the returned order, shall endorse the order with his or her name and enter the date on which the order was returned.

Any failure of the judge or justice of the peace to make such an endorsement and entry does not in and of itself invalidate the order.

5. Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any record of the proceedings to be sealed and to be opened for inspection only upon an order of the court for good cause shown.

6. A court may establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order pursuant to this section by electronic or telephonic means.

7. The employer of a person or the public agency for which the person volunteers, who files a petition or on whose behalf a petition is filed pursuant to this section or the insurer of the employer or public agency, shall pay the cost of performing the test pursuant to subsection 3.

8. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS.

**Sec. 9.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 469.

Bill read second time.

The following amendment was proposed by Assemblyman Flores:

Amendment No. 859.

AN ACT relating to education; clarifying that a large school district is responsible for utilities for each local school precinct; revising the number of local school precincts in a large school district that a school associate superintendent is authorized to oversee; revising provisions relating to the allocation of money by such a large school district to local school precincts to carry out the responsibilities transferred to the precincts; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prescribes requirements for the transition and restructuring of school districts which have more than 100,000 pupils enrolled in its public schools (currently the Clark County School District) from a centralized operational model to a more decentralized and autonomous site-based operational model. (NRS 388G.500-388G.810) To accomplish this, existing law: (1) deems each public school within a large school district, other than a

charter school or a university school for profoundly gifted pupils, to be a local school precinct which is operated under site-based decision-making; and (2) provides to the local school precincts the authority to carry out certain responsibilities which have traditionally been carried out by the large school district. (NRS 388G.600)

Existing law: (1) requires the superintendent of schools of a large school district to transfer certain responsibilities to each local school precinct; and (2) provides that the large school district remains responsible for paying for and carrying out all other responsibilities necessary for the operation of the local school precincts. (NRS 388G.610) **Section 1** of this bill clarifies that the large school district remains responsible for utilities.

Existing law requires the superintendent of schools of a large school district to assign a school associate superintendent to oversee local school precincts, but prohibits such a person from being assigned to oversee more than 25 local school precincts. (NRS 388G.620) **Section 1.5** of this bill removes this prohibition, therefore authorizing a school associate superintendent to oversee more than 25 local school precincts.

~~Existing law requires the superintendent of schools of a large school district to annually make certain estimates regarding the funding received by the school district and to estimate the amount of money that will be allocated to the local school precincts for the next school year. Existing law prescribes certain money of the large school district as restricted and requires the amount allocated to the local school precincts be a certain percentage of the total amount of unrestricted money of the large school district. (NRS 388G.660) Section 2.5 of this bill classifies as restricted the money that is necessary for a large school district to carry out the responsibilities that are not transferred to the local school precinct and increases the percentage of the unrestricted money to be allocated to the local school precincts from 85 percent to 90 percent.~~

Existing law sets forth the manner in which a large school district is required to determine the allocation that will be made to each local school precinct, which must be on a per pupil basis. (NRS 388G.670) Existing law requires the superintendent of schools of a large school district to inform each local school precinct on or before January 15 of each year of the estimated amount of money that will be allocated to the local school precinct for the next school year, based upon: (1) for an existing local school precinct, the actual number of pupils who attended the local school precinct as reported during the previous calendar quarter; or (2) for a new local school precinct, the estimated number of pupils who will attend the new school and the effect on any existing local school precinct. (NRS 388G.680) For purposes of this allocation, **section 3** of this bill changes the measure for determining the number of pupils for existing local school precincts from actual numbers to estimates by the large school district, which is the same measure as is used for determining the number of pupils for a new local school precinct.



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

**Section 1.** NRS 388G.610 is hereby amended to read as follows:

388G.610 1. Except as otherwise provided in this section, the superintendent shall transfer authority to each local school precinct to carry out responsibilities in accordance with this section and the plan of operation approved for the local school precinct.

2. The superintendent shall transfer to each local school precinct the authority to carry out the following responsibilities:

(a) Select for the local school precinct the:

(1) Teachers;

(2) Administrators other than the principal; and

(3) Other staff who work under the direct supervision of the principal.

(b) Direct the supervision of the staff of the local school precinct, including, without limitation, taking any necessary disciplinary action which does not involve a violation of law or which does not require an investigation to comply with the law.

(c) Procure such equipment, services and supplies as the local school precinct deems necessary or advisable to carry out the plan of operation for the local school precinct. Equipment, services and supplies may be procured from the large school district in which the local school precinct is located or elsewhere, but such procurement must be carried out in accordance with the applicable policies of the large school district.

(d) Develop a balanced budget for the local school precinct for the use of the money allocated to the local school precinct, which must include, without limitation, the manner in which to expend any money not used for the purposes described in paragraphs (a), (b) and (c).

(e) Any other responsibility for which authority is transferred pursuant to subsection 7.

3. Except as otherwise provided in subsection 7, a large school district shall remain responsible for paying for and carrying out all other responsibilities necessary for the operation of the local school precincts and the large school district which have not been transferred to the local school precincts pursuant to subsection 2, including, without limitation, responsibility for:

(a) Negotiating the salaries, benefits and other conditions of employment of administrators, teachers and other staff necessary for the operation of the local school precinct;

(b) Transportation services;

(c) Food services;

(d) Risk management services;

(e) Financial services, including payroll services;

(f) Qualifying employees for any position within the large school district;

- (g) Services to promote and ensure equity and diversity;
- (h) Services to ensure compliance with all laws relating to civil rights;
- (i) Identification, evaluation, program placement, pupil assignment and other services provided to pupils pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, or pursuant to section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations adopted pursuant thereto;
- (j) Legal services;
- (k) Maintenance and repair of buildings;
- (l) Maintenance of the grounds of the local school precinct;
- (m) Custodial services;
- (n) Implementation of the master plan developed for English learners;
- (o) Internal audits;
- (p) Information technology services;
- (q) Police services;
- (r) Emergency management services;
- (s) Carrying out state mandated assessments and accountability reports;

~~and~~

- (t) Capital projects ~~+~~; *and*
- (u) *Utilities.*

4. To the greatest extent possible, the principal of a local school precinct shall select teachers who are licensed and in good standing before selecting substitutes to teach at the local school precinct. The principal, in consultation with the organizational team, shall make every effort to ensure that effective licensed teachers are employed at the local school precinct.

5. If a large school district is unable to provide any necessary maintenance or repair of the buildings or grounds of a local school precinct in a timely manner, the large school district must, at the expense of the large school district, procure any equipment, services and supplies necessary from another entity or business to provide such maintenance or repair for the local school precinct or take any other necessary action.

6. To the extent that any member of the staff of central services is assigned to provide services at a local school precinct on a temporary or permanent basis, the decision regarding the assignment and any subsequent reassignment of the member of the staff must be made in consultation with the principal of the local school precinct and the school associate superintendent.

7. On or before January 15 of each year, the superintendent shall determine, in consultation with the principals, school associate superintendents and organizational teams of each local school precinct, any additional authority that is not listed in subsection 2 to recommend transferring to one or more local school precincts. Such authority may include the authority to carry out any of the responsibilities listed in subsection 3 which is not prohibited by law, other than the responsibility for capital projects, if it is determined that transferring the authority will serve the best interests of the pupils. The recommendation to transfer authority to one or more local school precincts

must be submitted for approval by the board of trustees of the large school district. The board of trustees of the large school district shall consider such a recommendation and determine whether to approve the transfer of additional authority at its next regularly scheduled meeting if submitted within 5 working days before the next regularly scheduled meeting and otherwise the recommendation shall be considered at the following meeting.

8. If the authority to carry out any responsibility is transferred to a local school precinct pursuant to subsection 7, the large school district must allocate additional money to the local school precinct in an amount equal to the amount that would otherwise be paid by the large school district to carry out the responsibility.

**Sec. 1.5.** NRS 388G.620 is hereby amended to read as follows:

388G.620 1. The superintendent shall assign a school associate superintendent to oversee ~~each~~ *one or more* local school ~~precinct. Each school associate superintendent must not be assigned to oversee more than 25 local school~~ precincts.

2. Whenever a vacancy occurs in the position of school associate superintendent, the superintendent shall post notice of the vacancy. The superintendent shall interview qualified candidates for the vacant position. At least one, but not more than two representatives of the principals of the local school precincts overseen by the vacant position must be allowed to participate in interviewing candidates for the vacant position. If the local governmental agency which has the most schools that are overseen by the vacant position is:

(a) A city, the governing body of the city may appoint one representative to participate in interviewing candidates for the vacant position.

(b) Not a city, the board of county commissioners for the county in which the large school district is located may appoint one representative to participate in interviewing candidates for the vacant position.

3. Each person who participates in interviewing candidates pursuant to subsection 2 shall comply with all laws that apply to an employer when making a decision about employment.

4. Upon completion of the interviews pursuant to subsection 2 and before the superintendent makes a final determination about which candidate to hire, the superintendent must notify the governing body of the city or the board of county commissioners for the county, as applicable, regarding the candidate whom the superintendent intends to hire. After receiving such notice, the governing body of the city or the board of county commissioners, as applicable, may hold a public meeting within 10 days to question the superintendent and the candidate for the vacant position and receive public input. After any such meeting or, if no such meeting is held, after 10 days, the superintendent shall, in his or her sole discretion, hire a candidate for the vacant position.

5. After the school associate superintendent is hired, the superintendent may, in his or her sole discretion, reassign and make other employment decisions concerning the school associate superintendent.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. ~~NRS 388G.660 is hereby amended to read as follows:~~

~~388G.660 1. On or before January 15 of each year, the superintendent shall establish for the next school year:~~

~~(a) The estimated total amount of money to be received by the large school district from all sources, including any year-end balance that is carried forward, and shall identify the sources of such a year-end balance and whether the year-end balance is restricted. If the year-end balance is restricted, the superintendent shall identify the source of the restriction and the total amount of money to be received by the large school district that is unrestricted. Money may only be identified as restricted if it [is]:~~

~~(1) Is required by state or federal law [, if it is];~~

~~(2) Is proscribed by the Department;~~

~~(3) Is necessary for the large school district to carry out its responsibilities pursuant to subsection 3 of NRS 388G.610; or [if it has]~~

~~(4) Has been otherwise encumbered.~~

~~(b) The estimated percentage of the amount of money determined pursuant to paragraph (a) to be unrestricted that will be allocated to the local school precincts. The percentage must equal:~~

~~(1) For the first school year in which the large school district operates pursuant to the provisions of NRS 388G.500 to 388G.810, inclusive, not less than 80 percent of the total amount of money from all sources received by the large school district that is unrestricted for the school year; [and]~~

~~(2) For each subsequent school year [,] until 2019, 85 percent of the total amount of money from all sources received by the large school district that is unrestricted for the school year [,]; and~~

~~(3) For the school year beginning in 2019 and each subsequent school year, 90 percent of the total amount of money from all sources received by the large school district that is unrestricted for the school year.~~

~~(c) The estimated amount of categorical funding to be received by the large school district and whether such funding is restricted in a manner that prohibits the large school district from including that categorical funding in the amount of funding per pupil that is allocated to the local school precincts.~~

~~(d) The total estimated amount of money that will be allocated to each local school precinct as determined pursuant to NRS 388G.680.~~

~~2. The superintendent shall post the information established pursuant to subsection 1 on the Internet website of the large school district and make the information available to any person upon request.] (Deleted by amendment.)~~

Sec. 3. NRS 388G.680 is hereby amended to read as follows:

388G.680 1. On or before January 15 of each year, the superintendent shall inform each local school precinct of the estimated amount of money that will be allocated to the local school precinct for the next school year. The allocation must be based upon *estimates by the large school district of* the number of pupils in each category who *will* attend the local school precinct

after applying the appropriate weight to each category of pupil as determined pursuant to NRS 388G.670.

~~2. Except as otherwise provided in subsections 3 and 4, the number and category of pupils must be determined based upon the report of the pupils attending each local school precinct for the previous calendar quarter pursuant to NRS 387.1223.~~

~~3.1~~ If an additional local school precinct is added in the large school district, for the purpose of determining the first allocation for the new local school precinct, the large school district must estimate the number of pupils in each category who will attend the new local school precinct and the effect on any existing local school precinct. If the opening of a new local school precinct is anticipated to reduce the number of pupils who will attend another local school precinct, for purposes of determining the allocation, the number of pupils must be adjusted accordingly.

~~4.1~~ **3.** The estimated amount of money allocated to each local school precinct for the next school year must be adjusted on or before November 1 of each year to reflect the actual number of pupils in each category who attend the local school precinct.

**Sec. 4.** This act becomes effective on July 1, 2019.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 520.

Bill read second time and ordered to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that upon return from the printer, Assembly Bill No. 236 and Senate Bill No. 166 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Carlton moved that Senate Bill No. 319 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Benitez-Thompson moved that upon return from the printer, Senate Bills Nos. 86 and 250 be placed on the Chief Clerk's desk.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:27 p.m.

## ASSEMBLY IN SESSION

At 2:41 p.m.  
Mr. Speaker presiding.  
Quorum present.

Assemblywoman Benitez-Thompson moved that Senate Bills Nos. 103, 104, 201, 262, 270, and 315 be taken from their positions on the General File and placed at the top of the General File below Senate Bill No. 73.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 73.  
Bill read third time.

The following amendment was proposed by Assemblyman Yeager:  
Amendment No. 820.

AN ACT relating to gaming; revising the definition of “gaming device” to include mobile gaming; removing or repealing certain provisions relating to mobile gaming; revising certain provisions relating to publicly traded corporations registered with the Nevada Gaming Commission; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Nevada Gaming Commission and the Nevada Gaming Control Board to administer state gaming licenses and manufacturer’s, seller’s and distributor’s licenses, and to reform various acts relating to the regulation and control of gaming. (NRS 463.140) Existing law authorizes the Commission, with the advice and assistance of the Board, to adopt regulations governing the operation and licensing of mobile gaming. (NRS 463.730) Existing law defines “mobile gaming” as the conduct of gambling games through communication devices operated solely within certain establishments holding a nonrestricted gaming license that permits a person to transfer information to a computer in order to place a bet or wager, and respective information related to the display of the game, game outcomes or other comparable information. (NRS 463.0176) Existing law defines “gaming device” as any object used remotely or directly in connection with gaming, or any other game that affects the results of a wager by determining win or loss but which does not qualify as associated equipment. (NRS 463.0155) **Section 2** of this bill revises the definition of “gaming device” to include mobile gaming, thereby making mobile gaming subject to the same regulation and control as a gaming device. **Sections 1.7, 3-10, 11-19 and 20** of this bill remove or repeal all provisions with individual references to mobile gaming. **Section 19.5** of this bill exempts from the amendatory provisions of **sections 5, 7, 8, 10, 18 and 19**: (1) certain persons with a nonrestricted license for a mobile gaming system or such a license for the operation of a mobile gaming system; (2) certain persons who acquire a financial interest in such an operator of a mobile gaming system or the operation of such a system; or (3)

a successor in interest of such a person who acquired such a financial interest. **Section 19.5** also exempts from the amendatory provisions of **section 3** of this bill employees of such an operator of a mobile gaming system described in **section 19.5**. **Section 19.5** also provides that the provisions of law repealed by **section 20** of this bill still apply to those persons or transactions described in **section 19.5**. Finally, **section 19.5** provides that persons or transactions described in **section 19.5** are not exempt from certain provisions of law.

Existing law requires certain persons to apply for and obtain a finding of suitability from the Nevada Gaming Commission if the person acquires, under certain circumstances: (1) beneficial ownership of any voting security of a publicly traded corporation registered with the Commission; (2) beneficial or record ownership of any nonvoting security of a publicly traded corporation registered with the Commission; or (3) beneficial or record ownership of any debt security of a publicly traded corporation registered with the Commission. (NRS 463.643) **Section 10.8** of this bill requires certain persons to notify the Chair of the Board and apply for a finding of suitability with the Commission if such a person acquires or holds a certain percentage of any class of voting securities of a publicly traded corporation registered with the Commission. **Section 10.8** also requires certain persons or plan sponsors of a pension or employee benefit plan to notify the Chair, apply for a finding of suitability with the Commission and pay a sum of money to the Board if such a person or plan sponsor obtains beneficial ownership or ownership, as applicable, in such a publicly traded corporation and the person or plan sponsor has the intent to engage in certain proscribed activities, except that certain persons who acquire less than a 10 percent beneficial ownership in such a corporation through a pension or employee benefit plan, or plan sponsors who acquire less than 10 percent ownership in such a corporation, are not subject to such notification, application and payment requirements. **Sections 1.3, ~~1.4~~ and 1.5 ~~and~~** of this bill define “pension or employee benefit plan” and “proscribed activity” for the purposes of this bill. **Sections 10.2-10.6** make conforming changes.

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

**Section 1.** Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

**Sec. 1.3. 1.** *“Pension ~~or~~ or employee benefit plan” means an employee pension or welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 or a state or federal government pension plan.*

**2.** *The term does not include an employee pension or welfare benefit plan established by a publicly traded corporation that is registered with the Commission ~~or~~, unless such a pension or benefit plan is a multiemployer plan as defined in the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(37) or § 1301(a)(3).*

**Sec. 1.5. “Proscribed activity” means:**

**1. An activity that necessitates a change or amendment to the corporate charter, bylaws, management, policies or operation of a publicly traded corporation that is registered with the Commission;**

**2. An activity that materially influences or affects the affairs of a publicly traded corporation that is registered with the Commission; or**

**3. Any other activity determined by the Commission to be inconsistent with holding voting securities for investment purposes only.**

**Sec. 1.7. NRS 463.0136 is hereby amended to read as follows:**

463.0136 “Associated equipment” means:

1. Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming, ~~for mobile gaming,~~ any game, race book or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines and devices for weighing or counting money; or

2. A computerized system for recordation of sales for use in an area subject to the tax imposed pursuant to NRS 368A.200.

**Sec. 2. NRS 463.0155 is hereby amended to read as follows:**

463.0155 “Gaming device” means any object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

1. A slot machine.

2. **Mobile gaming.**

3. A collection of two or more of the following components:

(a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;

(b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(c) An assembled mechanical or electromechanical display unit intended for use in gambling; or

(d) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

~~3.~~ **4.** Any object which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

~~4.~~ **5.** A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

~~5.~~ **6.** A control program.

~~6.~~ **7.** Any combination of one of the components set forth in paragraphs (a) to (d), inclusive, of subsection ~~2.~~ **3** and any other component which the



Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

~~{7}~~ 8. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.

~~{8}~~

9. As used in this section ~~{~~“control”:

(a) “**Control** program” means any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted by the Commission.

(b) “**Mobile gaming**” means the conduct of gambling games through communications devices operated solely in an establishment which holds a nonrestricted gaming license and which operates at least 100 slot machines and at least one other game by the use of communications technology that allows a person to transmit information to a computer to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. For the purposes of this paragraph, “communications technology” means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.

Sec. 3. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. “Gaming employee” means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxpersons;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing and employees of an affiliate of such a person involved in assisting the person in carrying out the duties of the person in this State;

(i) Employees whose duties are directly involved with the manufacture, repair, sale or distribution of gaming devices, associated equipment when the employer is required by NRS 463.650 to be licensed, cashless wagering systems ~~[- mobile gaming systems, equipment associated with mobile gaming systems]~~ or interactive gaming systems;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems ~~[- mobile gaming systems]~~ or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) Employees of operators of call centers who perform, or who supervise the performance of, the function of receiving and transmitting wagering instructions;

(m) Employees who have access to the Board's system of records for the purpose of processing the registrations of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;

(n) Floorpersons;

(o) Hosts or other persons empowered to extend credit or complimentary services;

(p) Keno runners;

(q) Keno writers;

(r) Machine mechanics;

(s) Odds makers and line setters;

(t) Security personnel;

(u) Shift or pit bosses;

(v) Shifts;

(w) Supervisors or managers;

(x) Ticket writers;

(y) Employees of a person required by NRS 463.160 to be licensed to operate an information service;

(z) Employees of a licensee who have local access and provide management, support, security or disaster recovery services for any hardware or software that is regulated pursuant to the provisions of this chapter and any regulations adopted pursuant thereto; and

(aa) Temporary or contract employees hired by a licensee to perform a function related to gaming.

2. "Gaming employee" does not include barbacks or bartenders whose duties do not involve gaming activities, cocktail servers or other persons engaged exclusively in preparing or serving food or beverages.

3. As used in this section, "local access" means access to hardware or software from within a licensed gaming establishment, hosting center or elsewhere within this State.

**Sec. 4.** NRS 463.01715 is hereby amended to read as follows:

463.01715 1. “Manufacture” means:

(a) To manufacture, produce, program, design, control the design of or make modifications to a gaming device, associated equipment, cashless wagering system ~~[- mobile gaming system]~~ or interactive gaming system for use or play in Nevada;

(b) To direct or control the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, associated equipment, cashless wagering system ~~[- mobile gaming system]~~ or interactive gaming system for use or play in Nevada;

(c) To assemble, or control the assembly of, a gaming device, associated equipment, cashless wagering system ~~[- mobile gaming system]~~ or interactive gaming system for use or play in Nevada; or

(d) To assume responsibility for any action described in paragraph (a), (b) or (c).

2. As used in this section:

(a) “Assume responsibility” means to:

(1) Acquire complete control over, or ownership of, the applicable gaming device, associated equipment, cashless wagering system ~~[- mobile gaming system]~~ or interactive gaming system; and

(2) Accept continuing legal responsibility for the gaming device, associated equipment, cashless wagering system ~~[- mobile gaming system]~~ or interactive gaming system, including, without limitation, any form of manufacture performed by an affiliate or independent contractor.

(b) “Independent contractor” means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, “control program” has the meaning ascribed to it in NRS 463.0155.

**Sec. 5.** NRS 463.0177 is hereby amended to read as follows:

463.0177 “Nonrestricted license” or “nonrestricted operation” means:

1. A state gaming license for, or an operation consisting of, 16 or more slot machines;

2. A license for, or operation of, any number of slot machines together with any other game, gaming device, race book or sports pool at one establishment;

3. A license for, or the operation of, a slot machine route; *or*

4. A license for, or the operation of, an inter-casino linked system. ~~[- or~~

~~5. A license for, or the operation of, a mobile gaming system.]~~

**Sec. 6.** NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, ~~mobile gaming system,~~ slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon;

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, ~~mobile gaming system,~~ race book or sports pool;

(e) To operate as a cash access and wagering instrument service provider;  
or

(f) To operate, carry on, conduct, maintain or expose for play in or from the State of Nevada any interactive gaming system,

↳ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, ~~mobile gaming system,~~ race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. For the purposes of this section, the operation of a race book or sports pool includes making the premises available for any of the following purposes:

(a) Allowing patrons to establish an account for wagering with the race book or sports pool;

(b) Accepting wagers from patrons;

(c) Allowing patrons to place wagers;

(d) Paying winning wagers to patrons; or

(e) Allowing patrons to withdraw cash from an account for wagering or to be issued a ticket, receipt, representation of value or other credit representing a withdrawal from an account for wagering that can be redeemed for cash,

↪ whether by a transaction in person at an establishment or through mechanical means, such as a kiosk or similar device, regardless of whether that device would otherwise be considered associated equipment. A separate license must be obtained for each location at which such an operation is conducted.

6. As used in this section, “affiliated licensee” has the meaning ascribed to it in NRS 463.430.

**Sec. 7.** NRS 463.1605 is hereby amended to read as follows:

463.1605 1. Except as otherwise provided in subsection 3, the Commission shall not approve a nonrestricted license, other than for the operation of a ~~mobile gaming system,~~ race book or sports pool at an establishment which holds a nonrestricted license to operate both gaming devices and a gambling game, for an establishment in a county whose population is 100,000 or more unless the establishment is a resort hotel.

2. A county, city or town may require resort hotels to meet standards in addition to those required by this chapter as a condition of issuance of a gaming license by the county, city or town.

3. The Commission may approve a nonrestricted license for an establishment which is not a resort hotel at a new location if:

(a) The establishment was acquired or displaced pursuant to a redevelopment project undertaken by an agency created pursuant to chapter 279 of NRS in accordance with a final order of condemnation entered before June 17, 2005; or

(b) The establishment was acquired or displaced pursuant to a redevelopment project undertaken by an agency created pursuant to chapter 279 of NRS in accordance with a final order of condemnation entered on or after June 17, 2005, and the new location of the establishment is within the same redevelopment area as the former location of the establishment.

**Sec. 8.** NRS 463.245 is hereby amended to read as follows:

463.245 1. Except as otherwise provided in this section:

(a) All licenses issued to the same person, including a wholly owned subsidiary of that person, for the operation of any game, including a sports pool or race book, which authorize gaming at the same establishment must be merged into a single gaming license.

(b) A gaming license may not be issued to any person if the issuance would result in more than one licensed operation at a single establishment, whether or not the profits or revenue from gaming are shared between the licensed operations.

2. A person who has been issued a nonrestricted gaming license for an operation described in subsection 1 ~~1~~ **or** 2 ~~for 5~~ of NRS 463.0177 may establish a sports pool or race book on the premises of the establishment only after obtaining permission from the Commission.

3. A person who has been issued a license to operate a sports pool or race book at an establishment may be issued a license to operate a sports pool or race book at a second establishment described in subsection 1 or 2 of NRS

463.0177 only if the second establishment is operated by a person who has been issued a nonrestricted license for that establishment. A person who has been issued a license to operate a race book or sports pool at an establishment is prohibited from operating a race book or sports pool at:

- (a) An establishment for which a restricted license has been granted; or
- (b) An establishment at which only a nonrestricted license has been granted for an operation described in subsection 3 or 4 of NRS 463.0177.

4. A person who has been issued a license to operate a race book or sports pool shall not enter into an agreement for the sharing of revenue from the operation of the race book or sports pool with another person in consideration for the offering, placing or maintaining of a kiosk or other similar device not physically located on the licensed premises of the race book or sports pool, except:

- (a) An affiliated licensed race book or sports pool; or
- (b) The licensee of an establishment at which the race book or sports pool holds or obtains a license to operate pursuant to this section.

↪ This subsection does not prohibit an operator of a race book or sports pool from entering into an agreement with another person for the provision of shared services relating to advertising or marketing.

5. Nothing in this section limits or prohibits an operator of an inter-casino linked system from placing and operating such a system on the premises of two or more gaming licensees and receiving, either directly or indirectly, any compensation or any percentage or share of the money or property played from the linked games in accordance with the provisions of this chapter and the regulations adopted by the Commission. An inter-casino linked system must not be used to link games other than slot machines, unless such games are located at an establishment that is licensed for games other than slot machines.

6. For the purposes of this section, the operation of a race book or sports pool includes making the premises available for any of the following purposes:

- (a) Allowing patrons to establish an account for wagering with the race book or sports pool;
- (b) Accepting wagers from patrons;
- (c) Allowing patrons to place wagers;
- (d) Paying winning wagers to patrons; or
- (e) Allowing patrons to withdraw cash from an account for wagering or to

be issued a ticket, receipt, representation of value or other credit representing a withdrawal from an account for wagering that can be redeemed for cash,

↪ whether by a transaction in person at an establishment or through mechanical means such as a kiosk or other similar device, regardless of whether that device would otherwise be considered associated equipment.

7. The provisions of this section do not apply to a license to operate ~~for a mobile gaming system or to operate~~ interactive gaming.

**Sec. 9.** NRS 463.305 is hereby amended to read as follows:

463.305 1. Any person who operates or maintains in this State any gaming device of a specific model, any gaming device which includes a

significant modification ~~of any mobile gaming system~~ or any inter-casino linked system which the Board or Commission has not approved for testing or for operation is subject to disciplinary action by the Board or Commission.

2. The Board shall maintain a list of approved gaming devices ~~for mobile gaming systems~~ and inter-casino linked systems.

3. If the Board suspends or revokes approval of a gaming device pursuant to the regulations adopted pursuant to subsection 4, ~~for suspends or revokes approval of a mobile gaming system pursuant to the regulations adopted pursuant to NRS 463.730,~~ the Board may order the removal of the gaming device ~~for mobile gaming system~~ from an establishment.

4. The Commission shall adopt regulations relating to gaming devices and their significant modification and inter-casino linked systems.

**Sec. 10.** NRS 463.3855 is hereby amended to read as follows:

463.3855 1. In addition to any other state license fees imposed by this chapter, the Commission shall, before issuing a state gaming license to an operator of a slot machine route ~~for an operator of a mobile gaming system~~ or an operator of an inter-casino linked system, charge and collect an annual license fee of \$500.

2. Each such license must be issued for a calendar year beginning January 1 and ending December 31. If the operation of the licensee is continuing, the Commission shall charge and collect the fee on or before December 31 for the ensuing calendar year.

3. Except as otherwise provided in NRS 463.386, the fee to be charged and collected under this section is the full annual fee, without regard to the date of application for or issuance of the license.

**Sec. 10.2.** NRS 463.482 is hereby amended to read as follows:

463.482 As used in NRS 463.160 to 463.170, inclusive, 463.368, 463.386, 463.482 to 463.645, inclusive, and 463.750, unless the context otherwise requires, the words and terms defined in NRS 463.4825 to 463.488, inclusive, **and sections 1.3 and 1.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 10.4.** NRS 463.622 is hereby amended to read as follows:

463.622 The policy of the State of Nevada with respect to corporate **affairs, including, without limitation, corporate** acquisitions, repurchases of securities and corporate recapitalizations affecting corporate licensees and publicly traded corporations that are affiliated companies is to:

1. Assure the financial stability of corporate licensees and affiliated companies;

2. **Protect the continued integrity of corporate gaming in matters of corporate governance;**

3. Preserve the beneficial aspects of conducting business in the corporate form; and

~~3.~~ 4. Promote a neutral environment for the orderly governance of corporate affairs that is consistent with the public policy of this state concerning gaming.

**Sec. 10.6.** NRS 463.623 is hereby amended to read as follows:

463.623 **1.** The Commission ~~may~~ **shall** adopt regulations providing for the review and approval of corporate acquisitions opposed by management, repurchases of securities and corporate defense tactics affecting corporate gaming licensees and publicly traded corporations that are affiliated companies. The regulations must be consistent with:

- ~~1-1~~ (a) The policy of this state as expressed in this chapter;
- ~~1-2~~ (b) The provisions of this chapter;
- ~~1-3~~ (c) The requirements of the Constitution of the United States; and
- ~~1-4~~ (d) Federal regulation of securities.

**2. The regulations must include, without limitation:**

(a) *Procedures by which a person, before engaging in certain proscribed activities, directly or indirectly, to materially influence or affect the affairs of a publicly traded corporation that is registered with the Commission, must file an application for a finding of suitability pursuant to NRS 463.643;*

(b) *Provisions that determine which corporate activities, in addition to those described in subsection 5 of NRS 463.643, influence or affect the affairs of a corporation in such a way that the Commission would require a person to file an application for a finding of suitability pursuant to NRS 463.643; and*

(c) *Provisions that ensure that a person is not unduly prohibited from lawfully exercising any of his or her voting rights derived from being a shareholder of a publicly traded corporation.*

**Sec. 10.8.** NRS 463.643 is hereby amended to read as follows:

463.643 **1.** Each person who acquires, directly or indirectly:

- (a) Beneficial ownership of any voting security; or
  - (b) Beneficial or record ownership of any nonvoting security,
- ↪ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of that ownership would otherwise be inconsistent with the declared policy of this state.

**2.** Each person who acquires, directly or indirectly, beneficial or record ownership of any debt security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that the person's acquisition of the debt security would otherwise be inconsistent with the declared policy of this state.

**3.** Each person who, individually or in association with others, acquires ~~1-1~~ **or holds**, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition **or holding** to the Securities and Exchange Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall, ~~within 10 days~~ after filing the report and any amendment thereto with the Securities and Exchange Commission, notify the Nevada Gaming



Commission *on the date specified in regulation by the Nevada Gaming Commission and* in the manner prescribed by the Chair of the Board that the report has been filed with the Securities and Exchange Commission.

4. Each person who, individually or in association with others, acquires ~~or holds~~ *or holds*, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition *or holding* pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of suitability within 30 days after the ~~Chair of the Board mails the written notice.~~ *date specified by the Commission by regulation.*

5. A person who acquires, directly or indirectly:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

↪ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.

6. *Except as otherwise provided in subsection 7, each person who, individually or in association with others, acquires or holds, directly or indirectly, the beneficial ownership of any amount of any class of voting securities of a publicly traded corporation registered with the Commission ~~or~~ or each plan sponsor of a pension or employee benefit plan that acquires or holds any amount of any class of voting securities in such a publicly traded corporation, and who has the intent to engage in any proscribed activity shall:*

(a) *Within 2 days after possession of such intent, notify the Chair of the Board in the manner prescribed by the Chair;*

(b) *Apply to the Commission for a finding of suitability within 30 days after notifying the Chair pursuant to paragraph (a); and*

(c) *Deposit with the Board the sum of money required by the Board pursuant to subsection 8.*

7. *Except as otherwise provided by the Commission, a person who has beneficial ownership of less than 10 percent of each class of voting securities of a publicly traded corporation registered with the Commission, acquired or held by the person through a pension ~~or~~ or employee benefit plan, or the plan sponsor of a pension or employee benefit plan that has ownership of less than 10 percent of each class of voting securities of such a publicly traded corporation, need not notify the Commission, apply for a finding of suitability with the Commission or deposit the required sum of money with the Board pursuant to subsection 6 before engaging in any proscribed activity.*

8. Any person required by the Commission or by this section to be found suitable shall:

(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that the person do so; and

(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.

~~7.9.~~ Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the:

(a) Beneficial ownership of any voting security; or

(b) Beneficial or record ownership of any nonvoting security or debt security,

↳ of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.

~~8.10.~~ The violation of subsection ~~6.8~~ or ~~7.9~~ is a gross misdemeanor.

~~9.11.~~ As used in this section, “debt security” means any instrument generally recognized as a corporate security representing money owed and reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures.

**Sec. 11.** NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to 7, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system ~~or mobile gaming system~~ or interactive gaming system for use or play in Nevada without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines ~~or mobile gaming systems~~ and cashless wagering systems, without a distributor’s license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor’s license.

4. The Commission may, by regulation, authorize a person who owns:
  - (a) Gaming devices for home use in accordance with NRS 463.160; or
  - (b) Antique gaming devices,↳ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.
5. Upon approval by the Board, a gaming device owned by:
  - (a) A law enforcement agency;
  - (b) A court of law; or
  - (c) A gaming device repair school licensed by the Commission on Postsecondary Education,↳ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chair.
6. A manufacturer who performs any action described in paragraph (a), (b) or (c) of subsection 1 of NRS 463.01715 is not required to be licensed under the provisions of this section with respect to the performance of that action if another manufacturer who is licensed under the provisions of this section assumes responsibility for the performance of that action.
7. An independent contractor who designs, develops, programs, produces or composes a control program for use in the manufacture of a gaming device that is for use or play in this State is not required to be licensed under the provisions of this section with respect to the design, development, programming, production or composition of a control program if a manufacturer who is licensed under the provisions of this section assumes responsibility for the design, development, programming, production or composition of the control program.
8. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section may be issued a manufacturer's or distributor's license. The burden of proving his or her qualification to receive or hold a license under this section is at all times on the applicant or licensee.
9. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.
10. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.
11. Any person conducting business in Nevada who is not required to be licensed as a manufacturer, seller or distributor pursuant to subsection 1, but who otherwise must register with the Attorney General of the United States pursuant to Title 15 of U.S.C., must submit to the Board a copy of such registration within 10 days after submission to the Attorney General of the United States.

12. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to knowingly distribute any gaming device, cashless wagering system, ~~mobile gaming system,~~ interactive gaming system or associated equipment from Nevada to any jurisdiction where the possession, ownership or use of any such device, system or equipment is illegal.

13. As used in this section:

(a) “Antique gaming device” means a gaming device that was manufactured before 1961.

(b) “Assume responsibility” has the meaning ascribed to it in NRS 463.01715.

(c) “Control program” has the meaning ascribed to it in NRS 463.0155.

(d) “Holding company” has the meaning ascribed to it in NRS 463.485.

(e) “Independent contractor” has the meaning ascribed to it in NRS 463.01715.

**Sec. 12.** NRS 463.6505 is hereby amended to read as follows:

463.6505 1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ must indicate in the application submitted to the Commission whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.

2. A license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ may not be renewed by the Commission if:

(a) The applicant fails to submit the information required by subsection 1; or

(b) The State Controller has informed the Commission pursuant to subsection 5 of NRS 353C.1965 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:

(1) Satisfied the debt;

(2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or

(3) Demonstrated that the debt is not valid.

3. As used in this section:

(a) “Agency” has the meaning ascribed to it in NRS 353C.020.

(b) “Debt” has the meaning ascribed to it in NRS 353C.040.

**Sec. 13.** NRS 463.651 is hereby amended to read as follows:

463.651 1. A natural person who applies for the issuance or renewal of a license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ shall submit to the Commission the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commission shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commission.

3. A license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ may not be issued or renewed by the Commission if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commission shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 14.** NRS 463.652 is hereby amended to read as follows:

463.652 1. If the Commission receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a manufacturer, distributor or seller of gaming devices, ~~for mobile gaming systems~~ the Commission shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commission receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commission shall reinstate a license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ that has been suspended by a district court pursuant to NRS 425.540 if the Commission receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 15.** NRS 463.653 is hereby amended to read as follows:

463.653 The application of a natural person who applies for the issuance of a license as a manufacturer, distributor or seller of gaming devices ~~for mobile gaming systems~~ must include the social security number of the applicant.

**Sec. 16.** NRS 463.670 is hereby amended to read as follows:

463.670 1. The Legislature finds and declares as facts:

(a) That the inspection of games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems ~~[- mobile gaming systems]~~ and interactive gaming systems is essential to carry out the provisions of this chapter.

(b) That the inspection of games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems ~~[- mobile gaming systems]~~ and interactive gaming systems is greatly facilitated by the opportunity to inspect components before assembly and to examine the methods of manufacture.

(c) That the interest of this State in the inspection of games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems ~~[- mobile gaming systems]~~ and interactive gaming systems must be balanced with the interest of this State in maintaining a competitive gaming industry in which games can be efficiently and expeditiously brought to the market.

2. The Commission may, with the advice and assistance of the Board, adopt and implement procedures that preserve and enhance the necessary balance between the regulatory and economic interests of this State which are critical to the vitality of the gaming industry of this State.

3. The Board may inspect every game or gaming device which is manufactured, sold or distributed:

(a) For use in this State, before the game or gaming device is put into play.

(b) In this State for use outside this State, before the game or gaming device is shipped out of this State.

4. The Board may inspect every game or gaming device which is offered for play within this State by a state gaming licensee.

5. The Board may inspect all associated equipment, every cashless wagering system, every inter-casino linked system ~~[- every mobile gaming system]~~ and every interactive gaming system which is manufactured, sold or distributed for use in this State before the equipment or system is installed or used by a state gaming licensee and at any time while the state gaming licensee is using the equipment or system.

6. In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect an inspection fee from each manufacturer, seller, distributor or independent testing laboratory which must not exceed the actual cost of inspection and investigation.

7. The Commission shall adopt regulations which:

(a) Provide for the registration of independent testing laboratories and of each person that owns, operates or has significant involvement with an independent testing laboratory, specify the form of the application required for such registration, set forth the qualifications required for such registration and establish the fees required for the application, the investigation of the applicant and the registration of the applicant.

(b) Authorize the Board to utilize independent testing laboratories for the inspection and certification of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system ~~+, mobile gaming system~~ or interactive gaming system, or any components thereof.

(c) Establish uniform protocols and procedures which the Board and independent testing laboratories must follow during an inspection performed pursuant to subsection 3 or 5, and which independent testing laboratories must follow during the certification of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system ~~+, mobile gaming system~~ or interactive gaming system, or any components thereof, for use in this State or for shipment from this State.

(d) Allow an application for the registration of an independent testing laboratory to be granted upon the independent testing laboratory's completion of an inspection performed in compliance with the uniform protocols and procedures established pursuant to paragraph (c) and satisfaction of such other requirements that the Board may establish.

(e) Provide the standards and procedures for the revocation of the registration of an independent testing laboratory.

(f) Provide the standards and procedures relating to the filing of an application for a finding of suitability pursuant to this section and the remedies should a person be found unsuitable.

(g) Provide any additional provisions which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

8. The Commission shall retain jurisdiction over any person registered pursuant to this section and any regulation adopted thereto, in all matters relating to a game, gaming device, associated equipment, cashless wagering system, inter-casino linked system ~~+, mobile gaming system~~ or interactive gaming system, or any component thereof or modification thereto, even if the person ceases to be registered.

9. A person registered pursuant to this section is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

10. The Commission may, upon recommendation of the Board, require the following persons to file an application for a finding of suitability:

(a) A registered independent testing laboratory.

(b) An employee of a registered independent testing laboratory.

(c) An officer, director, partner, principal, manager, member, trustee or direct or beneficial owner of a registered independent testing laboratory or any person that owns or has significant involvement with the activities of a registered independent testing laboratory.

11. If a person fails to submit an application for a finding of suitability within 30 days after a demand by the Commission pursuant to this section, the Commission may make a finding of unsuitability. Upon written request, such

period may be extended by the Chair of the Commission, at the Chair's sole and absolute discretion.

12. As used in this section, unless the context otherwise requires, "independent testing laboratory" means a private laboratory that is registered by the Board to inspect and certify games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems ~~[-mobile gaming systems]~~ or interactive gaming systems, and any components thereof and modifications thereto, and to perform such other services as the Board and Commission may request.

**Sec. 17.** NRS 463.677 is hereby amended to read as follows:

463.677 1. The Legislature finds that:

(a) Technological advances have evolved which allow licensed gaming establishments to expose games, including, without limitation, system-based and system-supported games, gaming devices, ~~[-mobile gaming systems]~~, interactive gaming, cashless wagering systems or race books and sports pools, and to be assisted by a service provider who provides important services to the public with regard to the conduct and exposure of such games.

(b) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission have the ability to license service providers by maintaining strict regulation and control of the operation of such service providers and all persons and locations associated therewith.

2. Except as otherwise provided in subsection 3, the Commission may, with the advice and assistance of the Board, provide by regulation for the licensing and operation of a service provider and all persons, locations and matters associated therewith. Such regulations may include, without limitation:

(a) Provisions requiring the service provider to meet the qualifications for licensing pursuant to NRS 463.170, in addition to any other qualifications established by the Commission, and to be licensed regardless of whether the service provider holds any other license.

(b) Criteria regarding the location from which the service provider conducts its operations, including, without limitation, minimum internal and operational control standards established by the Commission.

(c) Provisions relating to the licensing of persons owning or operating a service provider, and any persons having a significant involvement therewith, as determined by the Commission.

(d) A provision that a person owning, operating or having significant involvement with a service provider, as determined by the Commission, may be required by the Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(e) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129, including that



a service provider must be liable to the licensee on whose behalf the services are provided for the service provider's proportionate share of the fees and taxes paid by the licensee.

3. The Commission may not adopt regulations pursuant to this section until the Commission first determines that service providers are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

4. Regulations adopted by the Commission pursuant to this section must provide that the premises on which a service provider conducts its operations are subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises are where gaming is conducted and the service provider is a gaming licensee.

5. As used in this section:

(a) "Interactive gaming service provider" means a person who acts on behalf of an establishment licensed to operate interactive gaming and:

(1) Manages, administers or controls wagers that are initiated, received or made on an interactive gaming system;

(2) Manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated;

(3) Maintains or operates the software or hardware of an interactive gaming system; or

(4) Provides products, services, information or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system.

(b) "Service provider" means a person who:

(1) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;

(2) Is an interactive gaming service provider;

(3) Is a cash access and wagering instrument service provider; or

(4) Meets such other or additional criteria as the Commission may establish by regulation.

**Sec. 18.** NRS 465.070 is hereby amended to read as follows:

465.070 It is unlawful for any person:

1. To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

2. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

3. To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.

4. Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling game.

5. To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets.

6. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.

7. To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

8. To offer, promise or give anything of value to anyone for the purpose of influencing the outcome of a race, sporting event, contest or game upon which a wager may be made, or to place, increase or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest or game upon which the wager is placed, increased or decreased.

9. To change or alter the normal outcome of any game played on an interactive gaming system ~~for a mobile gaming system~~ or the way in which the outcome is reported to any participant in the game.

**Sec. 19.** NRS 465.094 is hereby amended to read as follows:

465.094 The provisions of NRS 465.092 and 465.093 do not apply to global risk management pursuant to NRS 463.810 and 463.820 or to a wager placed by a person for the person's own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:

1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

2. A person who is licensed to engage in off-track pari-mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;

3. ~~A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State~~

~~and otherwise complies with all other applicable laws and regulations concerning wagering;~~

~~4. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; or~~

~~5. 4. Any other person or establishment that is licensed to engage in wagering in another jurisdiction and is permitted to accept or receive a wager from patrons within this State under an agreement entered into by the Governor pursuant to NRS 463.747.~~

**Sec. 19.5.** 1. The amendatory provisions of section 3 of this act do not apply to an employee of an operator of a mobile gaming system described in subsection 2 whose duties include the operational or supervisory control of the system or the games that are part of the system.

2. The amendatory provisions of sections 5, 7, 8, 10, 18 and 19 of this act do not apply to:

(a) A person who holds a nonrestricted license for a mobile gaming system or who holds such a license for the operation of a mobile gaming system that was issued on or before June 30, 2019;

(b) A person who before, on or after July 1, 2019, acquires a financial interest in:

(1) An operator of a mobile gaming system described in paragraph (a); or

(2) The operation of such a mobile gaming system described in paragraph (a); or

(c) A successor in interest to a person who acquires a financial interest described in paragraph (b).

3. The provisions of statute repealed by section 20 of this act continue to apply on and after July 1, 2019, to any person or transaction described in subsections 1 and 2.

4. The provisions of this section do not exempt a person or transaction from any provision of law relating to the licensure, registration, finding of suitability, review or approval of such a person or transaction.

**Sec. 20.** NRS 463.0176, 463.730 and 463.735 are hereby repealed.

**Sec. 21.** 1. This section and sections 1, 1.3, 1.5 and 10.2 to 10.8, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks to carry out the amendatory provisions of this act, and on January 1, 2020, for all other purposes.

2. Sections 1.7 to 10, inclusive, and 11 to 20, inclusive, of this act become effective on July 1, 2019.

#### TEXT OF REPEALED SECTIONS

**463.0176 “Mobile gaming” defined.** “Mobile gaming” means the conduct of gambling games through communications devices operated solely

in an establishment which holds a nonrestricted gaming license and which operates at least 100 slot machines and at least one other game by the use of communications technology that allows a person to transmit information to a computer to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. For the purposes of this section, “communications technology” means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.

**463.730 License required to operate, manufacture, sell or distribute mobile gaming system or to manufacture equipment associated with mobile gaming; powers and duties of Commission; regulations; conditions.**

1. Except as otherwise provided in subsection 2, the Commission may, with the advice and assistance of the Board, adopt regulations governing the operation of mobile gaming and the licensing of:

- (a) An operator of a mobile gaming system;
- (b) A manufacturer, seller or distributor of a mobile gaming system; and
- (c) A manufacturer of equipment associated with mobile gaming.

2. The Commission may not adopt regulations pursuant to this section until the Commission first determines that:

- (a) Mobile gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from areas of licensed gaming establishments that have been approved by the Commission for that purpose; and
- (b) Mobile gaming can be operated in a manner which complies with all applicable laws.

3. The regulations adopted by the Commission pursuant to this section must:

- (a) Provide that gross revenue received by a licensed gaming establishment or the operator or the manufacturer of a mobile gaming system from the operation of mobile gaming is subject to the same license fee provisions of NRS 463.370 as the other games and gaming devices operated at the licensed gaming establishment.
- (b) Provide that a mobile communications device which displays information relating to the game to a participant in the game as part of a mobile gaming system is subject to the same fees and taxes applicable to slot machines as set forth in NRS 463.375 and 463.385.
- (c) Set forth standards for the security of the computer system and its location, which may be outside a licensed gaming establishment but must be within this State, and for approval of hardware and software used in connection with mobile gaming.

(d) Define “mobile gaming system,” “operator of a mobile gaming system” and “equipment associated with mobile gaming” as the terms are used in this chapter.

**463.735 Enforceability of mobile gaming debts.** A debt incurred by a patron in connection with playing a mobile gaming system at a licensed gaming establishment is valid and may be enforced by legal process.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 103.

Bill read third time.

Remarks by Assemblywoman Munk.

ASSEMBLYWOMAN MUNK:

Senate Bill 103 authorizes certain local governments—in Clark and Washoe Counties—to reduce or subsidize impact fees, fees for the issuance of building permits, and fees imposed for the purpose for which an enterprise fund was created in order to incentivize the maintenance or development of a project for affordable housing.

Roll call on Senate Bill No. 103:

YEAS—36.

NAYS—Ellison, Hafen, Titus, Wheeler—4.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 103 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 104.

Bill read third time.

Remarks by Assemblyman Hafen.

ASSEMBLYMAN HAFEN:

Senate Bill 104 requires the inclusion of certain reports as sources of information for the low-income housing database. The measure repeals the requirement to provide a quarterly report to the Aging and Disability Services Division of the Department of Health and Human Services and instead requires these quarterly reports to be submitted by certain owners to the Housing Division for inclusion in the statewide low-income housing database.

Roll call on Senate Bill No. 104:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 104 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 201.

Bill read third time.

Remarks by Assemblymen Martinez and Wheeler.

ASSEMBLYWOMAN MARTINEZ:

Senate Bill 201 adopts provisions from the federal Military Lending Act, which imposes limitations on the terms of consumer credit that is extended to active duty members of the Armed Forces of the United States and their dependents. Senate Bill 201 additionally authorizes a person who operates a deferred deposit loan service, high-interest loan service, or title loan service to distribute information and materials provided by the Department of Health and Human Services concerning public assistance and services provided by public agencies.

The provisions of this bill that require the Commissioner to contract with a vendor or service provider to develop a database and the provisions authorizing a deferred deposit or high-interest loan service to exceed certain loan limitations are effective on July 1, 2019.

ASSEMBLYMAN WHEELER:

I rise in opposition to Senate Bill 201 for a few reasons. I would like to ask my colleagues to consider carefully, vote your conscience, and join me in voting no. Some of our constituents just do not have the friends, family, or church to borrow from in times of absolute need for some short-term funding. We need to protect them in the short-term lending process, mostly from turning to illegal online or offshore black markets, and allow them to do business with our local, regulated businesses. Senate Bill 201 is going to tighten up credit opportunities for low-income families and our young professionals who are just starting out on their own who need that short-term credit to get through. I hope you will all join me in voting no on this bill.

Roll call on Senate Bill No. 201:

YEAS—28.

NAYS—Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Roberts, Titus, Tolles, Wheeler—12.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 201 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 262.

Bill read third time.

Remarks by Assemblywoman Nguyen.

ASSEMBLYWOMAN NGUYEN:

Senate Bill 262 makes various changes to provide for the tracking and reporting of information concerning the pricing of prescription drugs for treating asthma. Specifically, the bill adds asthma drugs to the list of essential prescription drugs that the Department of Health and Human Services must compile and add to the list of such drugs that have been subject to a significant price increase in the immediately preceding two calendar years.

Roll call on Senate Bill No. 262:

YEAS—28.

NAYS—Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Roberts, Titus, Tolles, Wheeler—12.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 262 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 270.

Bill read third time.

Remarks by Assemblywoman Munk.

ASSEMBLYWOMAN MUNK:

Senate Bill 270 requires the Department of Health and Human Services, to the extent that money is available, to establish and administer the Nevada Housing Crisis Response System to prevent and address homelessness in the state by coordinating with local governments and nonprofit organizations; providing a system to respond to crises 24 hours per day, seven days per week; developing prevention and assistance programs; and generally assisting people who are transient, at imminent risk of homelessness, or homeless.

Roll call on Senate Bill No. 270:

YEAS—38.

NAYS—Hafen, Titus—2.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 270 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 315.

Bill read third time.

Remarks by Assemblyman Assefa.

ASSEMBLYMAN ASSEFA:

Senate Bill 315 makes various changes related to rare diseases and childhood cancer. Specifically, the bill creates the Rare Disease Advisory Council within the Department of Health and Human Services to study issues relating to the prevalence and treatment of rare diseases in Nevada.

Roll call on Senate Bill No. 315:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 315 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez Thompson moved that Senate Bills Nos. 42, 67, 87, 95, 101, 108, 113, 126, 136, 140, 147, 150, 164, 172, 181, 208, 212, 219, 220, 233, 298, 341, 356, 367, 382, 385, 387, 394, 396, 397, 400, 428, 429, 436, 442, 452, 456, 457, 460, 465, 473, 479, 481, 482, 486, and 491; Senate Joint Resolutions Nos. 4 and 7; Senate Joint Resolutions of the 79th Session Nos. 1 and 3 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

## UNFINISHED BUSINESS

## SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 10, 17, 18, 23, 28, 34, 39, 52, 54, 58, 59, 93, 114, 117, 122, 136, 152, 190, 195, 201, 204, 206, 212, 333, and 499; Senate Bills Nos. 24, 31, 34, 40, 54, 56, 75, 81, 100, 178, 199, 231, 392, and 416.

## GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Swank, the privilege of the floor of the Assembly Chamber for this day was extended to Clint Mothershead and Jennifer Diamond.

On request of Assemblyman Wheeler, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from Minden Elementary School: Giovanni Alba Juarez, Waylon Almeida, Sophia Bacon, Luke Brown, Shiloh Campbell, Zorana Carter, Osvaldo Castillo Sarabia, Henna Claussen, Jayden Cross, Lacey Duran, Willow Hathaway, Gracie Hemmah, Mason Jackson, Isabella Johnson, Lacey Johnson, Anna Koster, Joseph Larson, Lucas Lopez, Austin Macpherson, Achcauhtli Medina, Svea Nilssen, Elina Cente Quesada, Isacc Ramirez, Sofia Sanchez, Keaton Smith, Aiden Tarlo, Alexis Whorley, Dax Ballingham, Blaine Bilderback, Abigail Cerda, Eva Conkle, Sophia Farnese, Lucas Goss, Aimee Haskins, Blare Jones, Chloe Kellogg, Joy Langkilde, Daisy Lehmann, Natalee Lenz, Dominic Lewis, Elliott Lewis, Aaron Lopez, Caiden Minnis, Cristobal Orozco, Landon Park, Blake Parker, Anna Patmont, Scott Peck, Maxwell Raymundo, Alexsa Reyes, Ryan Spears, Wyatt Tomazin, Jason Wiaschin, Taskar Zane, Rudy Avila, Jackson Bartlett, Trentan Batchelder, Henry Berston, Brody Blosser, Addison Chrzanowski, Jared Colato, Arianna Cooper, Samantha Ford, Eric Garcia, Jayden Housden, Jovana Jerkovic, Jude Maalouf, Legacy Mairs, William Marcoccia, Alexander Martin, Zoe Nelson, Ivana Pacheco, Henry Pfeil, Travis Quilici, Maria Reynoso, Azalia Romero Mendez, Danzig Schroeder, Ilana Teague, Lucius Tomassi, and Brody Whalen.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Thursday, May 23, 2019, at 11:30 a.m.

Motion carried.

Assembly adjourned at 2:54 p.m.

Approved:

JASON FRIERSON  
*Speaker of the Assembly*

Attest: SUSAN FURLONG  
*Chief Clerk of the Assembly*