THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), May 31, 2019

Senate called to order at 2:25 p.m.

President Marshall presiding.

Roll called.

All present except Senator Washington, who was excused.

Prayer by Senator Scott Hammond.

Our Heavenly Father, we are indeed grateful to be here, today. We are grateful for our blessings. We are grateful for those opportunities which come to us as office holders to serve those constituents that we have, that we might do so with their thought, with their needs and desires in our minds and in our hearts. We pray for sharpness of mind, and we pray for alacrity in our actions so we may be able to complete our intended goals by Monday night.

As we do pray in the Name of Jesus Christ,

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 524, 536, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 3, 216, 421, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

JOYCE WOODHOUSE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 130, 346, 363, 549.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 155.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 1, 6.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in Senate Amendment No. 878 to Assembly Bill No. 70.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 31, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 203, Assembly Amendment No. 811, and requests a conference, and appointed Assemblymen Cohen, Benitez-Thompson and Titus as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 403, Assembly Amendment No. 786, and requests a conference, and appointed Assemblymen Flores, Monroe-Moreno and Tolles as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 463, Assembly Amendment No. 765, and requests a conference, and appointed Assemblymen Flores, McCurdy and Hardy as a Conference Committee to meet with a like committee of the Senate.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Woodhouse moved that Assembly Bills Nos. 229, 297, 331 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Judiciary:

Senate Bill No. 554—AN ACT relating to state governmental operations; revising provisions governing application of the legislative continuance statute in certain judicial or administrative proceedings; and providing other matters properly relating thereto.

Senator Cannizzaro moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 155.

Senator Ratti moved that the bill be referred to the Committee on Education.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that Assembly Bills Nos. 77, 319 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Ratti moved that Assembly Bill No. 128 be taken from the General File and placed on the General File on the last Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 507.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 507 makes a General Fund appropriation of $200,000 to the State Public Works Division of the Department of Administration for the support of the Marlette Lake Water System.

Roll call on Senate Bill No. 507:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 507 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 528.

Bill read third time.

Remarks by Senators Woodhouse, Hardy and Goicoechea.

SENATOR WOODHOUSE:

Senate Bill No. 528 provides for General Fund appropriations of $2 million to the Lou Ruvo Center for Brain Health for research, clinical studies, operations and educational programs at the Center. The bill also appropriates General Funds of $542,343 in each fiscal year of the 2019-2021 Biennium to the Center for operations and educational programs to restore funding previously received by the Center from the University of Nevada, Reno, School of Medicine for this purpose. Finally, the bill requires that the Center report to the Interim Finance Committee during the interim describing each expenditure made by the money appropriated, and that the Center make available to the Legislative Auditor any records as deemed necessary to conduct an audit of the use of money appropriated in the bill. I urge your support.

SENATOR HARDY:

I rise in support of Senate Bill No. 528. The Lou Ruvo Center is one of the places people come to from out of the State to get care in Nevada. It is a critical piece for medical education in the State of Nevada, and it is wise we support them because they have been supporting our people.

SENATOR GOICOECHEA:

In trying to be fiscally responsible, I voted against this bill in Committee. There are, however, some things that need funding, so I will be supporting Senate Bill No. 528.

Roll call on Senate Bill No. 528:

YEAS—19.

NAYS—Hansen.

EXCUSED—Washington.

Senate Bill No. 528 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 552.

Bill read third time.

Remarks by Senator Ohrenschall.

Senate Bill No. 552 changes, from November 1 to September 1, the earliest date certain interim statutory committees of the Nevada Legislature may meet during each odd-numbered year. The measure also changes, from January 1 to November 1, the earliest starting date for meetings of a legislative committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission. Senate Bill No. 552 authorizes the Legislative Commission to provide, by regulation, additional requirements on the submission of reports made to the Nevada Legislature, the Legislative Counsel Bureau or other person within the Nevada Legislature. The measure also repeals provisions requiring the Legislative Commission to prescribe, by regulation, the kinds of records kept by and the contents of reports made by district attorneys and public defenders in this State.

Senate Bill No. 552 revises provisions regarding allowances received by Legislators for certain expenses. Specifically, the measure eliminates the allowance provided to Legislators for the payment of telephone tolls and charges. Instead, such payments are authorized for communication charges other than landline telephone charges, as well as other expenses incurred in the performance of official duties. Any landline telephone charges will be paid from the Legislative

Fund for all Legislators. The measure also eliminates the requirement that the availability of State owned automobiles be considered when determining the allowance a Legislator is entitled to receive for transportation-related expenses. Finally, the Senate Bill No. 552 makes a technical correction to the statutory description of parcels of land controlled by the Nevada Legislature, here, at the Capitol Complex in Carson City.

Roll call on Senate Bill No. 552:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Senate Bill No. 552 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 44.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 44 creates the Stewart Indian School Cultural Center and Museum. The bill establishes the position of a museum director as a classified employee of the State, appointed and supervised by the Executive Director of the Nevada Indian Commission of the Department of Tourism and Cultural Affairs. The museum director is required to engage in various activities for the purposes of operating and maintaining the museum, including establishing a store for the sale of gifts and souvenirs. Finally, the measure requires revenues generated by the Museum to be accounted for in the Nevada Indian Commission's Gift Fund.

Roll call on Assembly Bill No. 44:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Assembly Bill No. 44 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 68.

Bill read third time.

Remarks by Senator Seevers Gansert.

Assembly Bill No. 68 revises the State Apprenticeship Council's membership appointment process and composition and modifies provisions governing voting by Council members. This bill also authorizes the Executive Director of the Office of Workforce Innovation, instead of the Governor, to select the chair and vice chair of the Council; increases from one year to two years the term of office for the chair and vice chair, and provides that the chair, or vice chair in the absence of the chair, is not entitled to a vote except to break a tie. Finally, this bill adds genetic information and "age of 40 years or older" to the list of categories for which certain entities may be suspended from the apprenticeship program for discriminating against an apprentice.

Roll call on Assembly Bill No. 68:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Assembly Bill No. 68 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 223.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 223 requires the Department of Health and Human Services (DHHS) to apply for a Medicaid waiver to provide certain dental services to Medicaid recipients with diabetes who are at least 21 years of age. The measure further requires a health-maintenance organization or managed-care organization that manages care for Medicaid recipients to provide such dental coverage to eligible persons. Further, the measure requires the Department to use effective purchasing methods, including collaborating with the Department of Administration, to negotiate lower prices for services when implementing the waiver, and submit to the 81st Session of the Legislature a report concerning the implementation of the waiver.

Roll call on Assembly Bill No. 223:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 223 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 234.

Bill read third time.

Remarks by Senator Hardy.

Assembly Bill No. 234 requires the State plan for the Program for Child Care and Development to include requirements that the Program include measures to increase the availability of child care for children with disabilities to the extent that money is available, reimburse a portion of the cost of child care provided to the children of certain eligible parents who are enrolled in certain educational or vocational programs that award a degree or certificate.

The Director of DHHS must submit a report to the Legislature each even-numbered year regarding the measures included in the State plan and data concerning the use of reimbursements for the cost of child care.

Roll call on Assembly Bill No. 234:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 234 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 264.

Bill read third time.

Remarks by Senator Scheible.

Assembly Bill No. 264 requires the Nevada Indian Commission of the Department of Tourism and Cultural Affairs to implement a policy that promotes collaboration and positive government-to-government relations between State agencies and Indian tribes. In developing such a policy, the Commission shall consult with representatives of Indian tribes and State agencies.

Each State agency is further required to collaborate with Indian tribes in the development and implementation of policies, agreements and programs that affect Indian tribes. Finally, the bill defines a process to resolve issues or concerns between a tribe and a State agency and requires the Nevada Indian Commission to report certain activities to the Governor and the Legislative Commission.

Roll call on Assembly Bill No. 264:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 264 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 291.

Bill read third time.

Remarks by Senators Harris, Hammond, Hardy, Scheible, Pickard, Hansen, Cannizzaro, Cancela and Spearman.

SENATOR HARRIS:

Assembly Bill No. 291 prohibits a person from importing, manufacturing, possessing, receiving, selling or transferring any device, part or combination of parts that can be attached to a semiautomatic firearm that eliminates the need for the operator of the semiautomatic firearm to make a separate movement for each individual function of the trigger and materially increases the rate of fire of the semiautomatic firearm or approximates the action or rate of fire of a machine gun. These prohibitions also apply to any semiautomatic firearm that has been modified in any way to achieve the same result. Additionally, the bill reduces, from 0.10 to 0.08, the allowable concentration of alcohol that may be present in the blood or breath of a person who is in possession or control of a firearm.

The bill establishes procedures for the issuance of an *ex parte* or extended order for protection when a person poses a risk of injury to themselves or another, and acts or conduct that constitute high risk behavior are set forth. The bill also provides that a family or household member or law-enforcement officer may file a verified application to obtain an order against a person who poses a risk of causing injury to himself or herself or another person by possessing or having under his or her control, or otherwise acquiring, a firearm. The bill sets forth provisions governing the issuance of different types of orders and the evidence required to issue each. It also provides that a person who files an application for an order that is false or misleading or intended to harass the adverse party is guilty of a misdemeanor.

A person against whom an order is issued must surrender any firearm in his or her possession or control and is prohibited from possessing or having control of a firearm while the order is in effect, and a person who violates these provisions is guilty of a misdemeanor. Finally, a person who negligently stores or leaves a firearm at a location under his or her control and knows or should know that a child, who is otherwise prohibited from handling a firearm, may obtain the firearm is guilty of a misdemeanor. Provisions of this bill relating to the modification of semiautomatic weapons and changes to the allowable concentration of alcohol are effective upon passage and approval. Provisions relating to temporary or extended orders for protection are effective on January 1, 2020.

SENATOR HAMMOND:

I want to say, first and foremost, my friend and colleague who sponsored this bill showed courage and bravery in her testimony. I have immense respect for her and for her tenacity on this issue. Yet, I rise in respectful opposition to Assembly Bill No. 291. Like many of my colleagues, I was in Las Vegas for the October 1 shooting. I met with and heard from too many people whose lives were forever changed by the tragic events of that night. I know the toll of firearms in the wrong hands. But, here, when we legislate, it means words, language and sometimes the

unintended consequences that come from flawed language must be addressed. The language of this bill severely limits the constitutional mandate found in the Fifth and Fourteenth Amendments of the United States which states: "No one shall be deprived of life, liberty or property without due process of law."

What is most troubling about this bill, and what makes it more troublesome than other protection orders, is we are depriving someone of a property interest who has not been convicted of a criminal act. This is more than a court asking someone to stay away; it is an intrusion into a home justified by merely owning a firearm. Whether the proponents like it or not, in the State of Nevada, we have enhanced gun rights stronger than what is provided by the Second Amendment. Not only are we depriving someone of a property interest but also a clearly delineated right in the *Nevada Constitution* as indicated by the lower evidentiary standard of preponderance of the evidence. This will create more conflict between our police and law-abiding firearm owners. It will potentially create significantly more litigation and put an undue burden on those who have done nothing wrong.

We cannot take back the tragedy that visited the Las Vegas area that autumn of 2017. By limiting rights and creating needless conflicts and more red tape, we are not doing anything to limit gun violence; we are only adding more red tape and regulations for law-abiding Nevadans and the law-enforcement personnel who protect us. I cannot, in good conscience, vote for this bill as written. I urge my colleagues to join me in voting "no" and for looking at ways we can prevent tragedy without involving the removal of constitutional, due process rights.

SENATOR HARDY:

I will explain what happens from the viewpoint of a physician. I talk to people and, sometimes, find out someone is depressed. I ask them if they have thoughts of hurting themselves, and if the answer is "yes," I ask how they would do it. Sometimes, they say they would shoot themselves. I then ask if they have a gun. If they answer "yes," I ask for the gun. So far, they have said "yes," and I have gotten the gun. This bill appears to require me to do something so someone can come over and take the gun away, as opposed to having the person just give me the gun. When an individual is depressed, you do not want to wait around before you hurt yourself or someone else. If, in the mental-health field, we do not have the opportunity to remove a weapon from the home and the control of a person, but have to go through this red-tape, we are putting the people we are trying to protect at risk. I am opposed to Assembly Bill No. 291.

SENATOR SCHEIBLE:

I would like to focus on the constitutional questions and answers related to this bill because it does raise constitutional questions. Legislation we pass in this House every day raises constitutional questions, because that is the nature of our democracy. When the Constitution was first written, it was without context. Over the course of 200 years, we have given context to that document through Supreme Court law. The story of Second Amendment juris prudence starts in 1905 with the Lochner case. The Lochner v. New York decision gave us something called "strict scrutiny." Strict scrutiny is what the Supreme Court applies to any decision it makes about one of our fundamental rights. This is because of footnote 4 in the Carolene Products case in 1938. Footnote 4 says that every law we pass has to pass the "rational basis" test unless that law affects one of our fundamental rights, and then, it has to pass the strict scrutiny test. The strict scrutiny test says any law that affects our fundamental rights must be narrowly tailored to do that as effectively as possible and only to do it for a compelling government interest.

The Supreme Court did not address our right to bear arms until 2008 in D.C. v. Heller. Up until that point, the right to bear arms had been addressed by circuit courts and federal courts. In D.C. v. Heller, one of my favorite Supreme Court judges, Justice Scalia, said, "There seems to us no doubt, that on the basis of both text and history, the Second Amendment conferred an individual right to keep and bear arms." Of course, that right was not unlimited, just as the First Amendment right to free speech was not. He goes on to say that just as we did not establish all of the jurisprudence on the right to property, the right to liberty or our right to free speech, neither was it all concluded with one simple decision in D.C. v. Heller. What D.C. v. Heller says is that strict scrutiny needs to be applied, and whenever we implement any restriction on an individual's constitutional right to bear arms, that restriction has to be narrowly tailored and serve a compelling government interest.

To date, the Supreme Court has not ruled as to what those compelling government interests are. What lawyers get to do is what we do each day in court. We look at the facts of the case, the policy we are considering, the steps we are about to take and ask ourselves what we think the Supreme Court would say. Do we think the Supreme Court would find the prevention of mass shootings a compelling government interest? Do we think the Supreme Court would find the prevention of teen suicides a compelling government interest? Do we think preventing the accidental death of young children who find guns underneath kitchen sinks would be a compelling government interest? You would be hard pressed to find a constitutional scholar who says "no". The government has already found a compelling interest in promoting diversity in schools and in protecting our police forces.

Constitutional law sets us up to succeed in this area. Passing Assembly Bill No. 291 sets us up to achieve the balance required by the Constitution. The United States Supreme Court says we can limit people's constitutional rights, not just their constitutional rights in general, but their constitutional right to bear arms can be limited as long as our rules are narrowly tailored. In this bill we are talking about individuals who, by clear and convincing evidence, have already shown they are a threat to themselves or others. We are talking about a narrow case of guns stored in a home, inside a locked box. We are talking about specific policies that promote a compelling government interest. To argue this is unconstitutional is simply misguided. This is exactly the kind of policy Justice Scalia pointed to in footnote 26 of D.C. v. Heller when he noted nothing about that decision should be misconstrued to suggest prohibitions on people with mental illnesses and other risk factors can be prohibited from possessing guns. That is why I am proud and confident to stand in support of Assembly Bill No. 291 today and make this important and well-reasoned step toward preventing gun violence in our communities.

SENATOR PICKARD:

I stand in opposition to this bill. Assembly Bill No. 291 was created in response to a personal and public tragedy. Any of us wish we could erase that from our history, but we cannot. The legislative response was expected. I agree with the remarks my colleague shared from Justice Scalia, there is nothing that prevents us from dealing with those who possess firearms and have mental-health problems. That is how, in the run-up to the presentation of this bill, this was discussed, as a rational response to mental illness. My problem with the amendment is it does not deal with mental illness; it deals with allegations from a third party that may or may not be diagnosed as mental illness. There is nothing in the bill that requires a mental-health evaluation by someone who is qualified to make that diagnosis prior to the depravation of a fundamental right. Justice Scalia would frown on this amendment because there is no assessment of a mental-health issue other than by third parties, many of whom may have an ulterior motive, before those fundamental constitutional rights are deprived. Does this suggest we should not deal with mental illness, of course not.

In Nevada Statutes, regarding domestic violence, we have the ability for law enforcement to remove firearms on a probable cause basis from the possession of a person who has been alleged to have committed domestic violence. When a temporary protective order is first obtained, that is done on the lowest evidentiary threshold possible, not a preponderance of evidence but a lower standard, mere satisfaction of the Court that the step should be taken. If the applicant does not apply for an extended order at that time, the temporary order stays in place up to 30 days, a 30-day depravation after a probable cause finding. That does not apply in this case. In this case, a person may simply file an affidavit saying another is likely to harm themselves or others and with a modicum of evidence present that to the Court. The Courts, on a practical basis, will almost always say "yes" and issue the order if there is a scintilla of evidence, not a preponderance. They will issue the order to better be safe than sorry. I do not have a problem with that.

In this case, however, the extended order can be repeatedly issued for any length of time on a mere preponderance of the evidence standard, or for the extended protection order, a clear and convincing standard. We are talking about a bill designed for confiscation of weapons. It does not address, in any respect, diagnosis of a mental illness. For those who would say those of us who vote against this are voting against public safety and keeping our schools safe, that is disingenuous. This bill is a response to a particular monied interest who donates a great deal of money in the elections, as testified to in the hearing. This bill is about confiscation and is inappropriate. I do not

believe it will withstand constitutional scrutiny. Do we need to do all we can to address mental illness, yes. I welcome that legislation, but this is not it. This bill should not pass this Body.

SENATOR HANSEN:

I also rise in opposition to Assembly Bill No. 291 and want to echo the comments of my colleagues from District 18 and 20. The bill has some highly disturbing language. One example is: "…a person who is currently in a dating or ongoing intimate relationship with the adverse party…" has the ability to go to a judge in an *ex parte* fashion, without any evidentiary hearing or the ability of the person being accused to show up, and get these sorts of restraining orders that take away their constitutional rights for up to seven days. The standard is surprisingly low and includes threats of violence or acquiring a firearm within the immediately preceding six months. Domestic issue are, unfortunately, ugly. When there are situations with a jilted ex-spouse or a bitter, vindictive person, their ability to take away your right to protect yourself will not be built into law.

If you are a woman, you are not typically as physically strong as a man is. One of the things that equalizes this is the ability of a woman to purchase a firearm. In Nevada, the number of women having concealed carry weapon (CCW) permits and are buying their own firearms has gone up by 110 percent. It is women who are buying guns. It is a woman who when facing a situation with an ex-spouse or angry boyfriend who could make accusations and disarm them who would have their ability to defend themselves taken away by this law. We need to consider this when we think about this law. It is in effect an anti-woman bill if it is applied by having these low standards.

In the hearings, Attorney General Adam Laxalt's name came up as being in favor of Red Flag laws. I contacted him and asked him about this. He made it clear he would be 100 percent against this law on the basis of the violation of an individual's due process rights.

There has to be a substantial cost to the Department of Public Safety to enforce some of these mechanisms of this bill, yet there is no fiscal note in this bill. There is no doubt this is going to involve some cost to the State. When this amendment was ramrodded through at the last minute, this was neglected and overlooked.

My colleague mentioned that Mayor Bloomberg has been pushing this across the Nation; it is no secret. He spent literally millions of dollars in Nevada in political races and advertising, and his goal has been made clear; he is demonizing firearms and trying to turn them into something everyone has a fear of rather than something we respect under our Second Amendment as a constitutional right. Legitimate polls, not just in Nevada but in the United States, show a consistent trend. The hostility towards firearms has dropped, and people overall have a positive view. The trends are reversing themselves. If you go back ten years, you will find more people thinking guns were bad, now they are starting to think guns are good. That is because of the CCW programs. As weapons become more and more available, less people see them as a horrible fear. There are several people in this building whom I am aware have CCWs and are carrying firearms in our presence regularly.

We have a horrible situation that was the genesis of the bill where a loaded firearm was picked up by a teenager, it discharged and killed a young lady. This was a horrible tragedy. I asked the district attorney's lobbyists why that case was not prosecuted. The Assemblyman who brought the bill felt there was sufficient basis to prosecute this case. The lobbyist said he did not think the firearm had been stored in a negligent way. The way it was stored right, then, was not negligent. The idea we are going to make it so a person who does not have a weapon in a locked container could potentially face prosecution is frightening. That standard is so high I would venture 90 percent of the people who own firearms in Nevada do not comply as they do not have them in locked facilities.

There is also a public safety factor for individuals who buy them. If you are a single woman living in a bad neighborhood, one thing you can do to protect yourself—because by the time you make a phone call to the police several minutes can go by before you have a level of protection—is keep a firearm in your night stand or somewhere else. This bill will criminalize that act. We need to be careful about many angles of this. Nobody wants to see accidents and nobody wants to see any sort of tragedy. I contacted the Division of Child and Family Services and asked them how many firearm accidents involving children aged 0 to 18 had occurred in Nevada during a normal year. The average is less than one, and these are typically hunting-related accidents. I also

asked about how many children accidentally die in Nevada related to pools. The number is ten times what it is for firearms. If we are truly looking at a public-safety concern, we should be mandating locked fences around pools and covers over pools. This would have ten times the result of protecting children, if that was our main concern. There are many problems with this bill. Everybody supports public safety, but I do not support taking away fundamental rights. I urge my colleagues to vote "no" on Assembly Bill No. 291.

SENATOR CANNIZZARO:

I rise in support of Assembly Bill No. 291. There has been a lot of discussion that this law violates the Fifth and Fourth Amendments of the Constitution because there is a lack of due process in it, but I would argue that is fundamentally not true. We are dealing with the idea of taking a property interest; however, I would remind this Body that in Nevada law, which many of us voted for last Session, is a provision that allows for the confiscation of firearms in the case of a domestic violence situation. There is a substantial reason for that. When we discuss whether or not we should enact policies that infringe on constitutional rights, my colleague from District 9 articulated it in the most perfunctory way possible before this Body. The question is not whether we should look at taking firearms from people who are a danger to themselves or others but whether or not there is a compelling State interest as to why we would do that. I would argue there absolutely is.

It has been mentioned this would punish someone for merely owning a firearm. The plain language of Assembly Bill No. 291 belies that assertion. The plain language of Assembly Bill No. 291 requires actual threats of violence. It requires the use or attempted use of physical force, of imminent violence and requires someone engaged in a pattern of conduct that shows they are violent to themselves or to others. The provision, cited several times by my colleagues, that merely purchasing a firearm within the last six months would entitle someone to obtain an order under Assembly Bill No. 291, requires that you read the rest of the sentence. The rest of the sentence states not only did the person purchase a firearm within the last six months, but also, that the individual "…engaged in behavior that included the use or attempted use of threats; the use of physical force; the threat of imminent violence to themselves or others; or a pattern of conduct that is also threatening in nature." This bill does not just take a firearm away from someone. It puts into place procedures and reasons why this is necessary.

My colleague from Boulder City mentioned there are sometimes opportunities to ask someone if they are a danger to themselves or others and ask them for a weapon if they have one. What Assembly Bill No. 291 provides is that if there is a less restrictive means available that is adequate, it would be a protection to allow for this law to work. This law does not mandate a person would have to forego the request to take a firearm from someone who is a danger to themselves and is threatening to hurt themselves or others. Rather, it says there are least restrictive means, but in the event there is not usable least restrictive means, a judge may order that someone may not own firearms for a temporary period of time. I stress this is for a temporary period of time; it is not a permanent confiscation.

The idea of due process does not mean that because there is property taken there is a due process violation. A due process violation has to occur when there is not opportunity for notice, a hearing and an opportunity to be heard. What Assembly Bill No. 291 provides by the clear language in the bill, that we see not only in protective orders against domestic violence, sexual assault and stalking and assault, and similar provisions that apply in domestic violence cases when someone is not permitted to own a firearm, is that it requires the service of that order on the person. It requires a hearing be held in front of a judge for both the *ex parte* and the extended applications.

The idea this is merely an allegation that is formed to the judge is also belied by the plain language of Assembly Bill No. 291 that requires it be a verified application that states particular facts. The court is not bound by whether or not the judge thinks they should order this. For an *ex parte* application, a preponderance of the evidence is necessary. In many instances, we operate by the preponderance of evidence in our cases. In the Judiciary Committee, we have just heard bills dealing with the idea of preponderance of the evidence. If it is sufficient to talk about in the context of the criminal justice system, it is appropriate to talk about in the event someone is immediately a danger to themselves and an *ex parte* application would be appropriate. Where an extended application is required, clear and convincing evidence is necessary. The only standard

higher than that is "beyond a reasonable doubt," and the only time we use beyond a reasonable doubt is in a criminal case. The idea we are asking a court to grant an order with no evidence is simply not true. It does not match our system of justice or the way in which our courts operate.

As someone who works in a world where I have the conversation with the victim's family, if there is one thing we can do to prevent these conversations, it is worth it. If you ever had to have one of these conversations with a victim's family and explain why there was nothing that could be done, you would stand in support as well. Those conversations are not the kinds of conversations we should be having. That is the crux of this issue: it is not due process; it is not a violation of constitutional rights; it is not monied interests. I do not stand on this Floor in support of monied interests. When you are the person who has had to have the conversation with a victim's family about whether or not there was something that could have been done, you fight for things that provide safety. That is what Assembly Bill No. 291 does. I urge my colleagues to support this piece of legislation. The only question before us is whether or not we believe in the safety of those who deserve it the most. I urge your support.

SENATOR CANCELA:

It is troubling that we are talking about this bill as being anti-woman because of the way it is written. What it will do will save lives. *The American Journal of Medicine* has cited that women are 16 times more likely to be the victim of domestic violence with a gun. The Center for Disease Control estimates that 5.3-million incidents of partner-related violence have happened to women with a gun. The FBI says that in one month, in an average month, 50 women are shot to death by their partner. Fifteen other states plus Washington D.C. have enacted similar laws to ensure those kinds of statistics are not the reality in our Country. I find it frustrating an awful event like what happened on October 1 could be in any way characterized as the only impetus for this legislation. It is part of it, but those types of statistics are what we are addressing with this legislation. A similar law was enacted in Maryland. The Montgomery County Sheriff said, "These orders are saving lives." It is important to consider this before we take this vote.

SENATOR SPEARMAN:

I am in support of Assembly Bill No. 291. The arguments against trying to prevent gun violence are almost predictable. I will not try to go down the road my colleagues from Districts 6 and 9, being attorneys did because I am not one. I will, however, repeat something I have said time and time again: we have laws for pool safety, but that does not mean someone will come and pick up your pool. In southern Nevada, we rarely see tire chains. I understand here in northern Nevada when the blinking light is on, it says to use tire chains, you can be cited if you do not use them. I am trying to show the fallacy in making the leap from protecting people from those who should not have weapons. I am insulted anyone would say this is about women's safety. We will see if the veracity of those words hold up when it comes time to vote for the Nevada Equal Rights Amendment.

We have many opportunities to vote to fund mental health and will have more before this Session is over. To those who say it is a bad bill because it infringes upon the rights of other people, I will say this, in all of my almost 30 years of serving in the military, I did not serve so someone who had a mental illness could assert a right to carry a weapon and kill someone because of that mental illness. Please do not try to teach me about the Second Amendment. I have served long enough for anyone to know I want to fight and defend all of the Constitution, not just some of it, and that includes the things that have been added on to it such as civil rights.

The outcome of this vote is predictable. After having read through it and having read several emails that were redundant, I would say for me to say this bill is unconstitutional because it takes away people's rights, I would need a parachute to make that leap of faith.

SENATOR HARRIS:

I am going to say something you may never hear me say on the Floor again, my colleague from District 14 has it right. Unfortunately, his pointed comments were given on Senate Bill No. 143, and I quote:

> We have been focusing on the Parkland shooting … . Let us look at that shooting. Nikolas Cruz was the young man in that shooting, and I have his history from the March 10, 2018, Washington Post. Let us talk about his emotional issues. On January 15, 2013, Mr. Cruz

beat up his mother in a case of domestic violence. In 2014, at Cross Creek School for students with emotional or behavioral problems, he had 26 violations, more than three per month, and was suspended from the school. On February 5, 2016, an anonymous report was submitted saying Mr. Cruz had stated on Instagram that he planned to shoot up the Stoneman Douglas High School. The Broward County Sheriff received this report from an unnamed neighbor whose son said Cruz posted a photo of himself with guns. On September 28, 2016, after he had turned 18 on September 24th, the sheriff received another report from a school resource officer who reported a peer counselor told him that Cruz ingested gasoline in an effort to commit suicide and was cutting himself. He allegedly said he wanted to buy a gun and that he possessed hate-related symbols. Eight hours later, a sheriff's deputy responded to the Cruz home on allegations that Cruz was hurting himself and talking about buying a gun. The Florida Department of Child and Families opened a case on him at this time and called him a vulnerable adult due to mental illness. On February 11, 2017, Cruz purchased at least ten weapons prior to the shooting. After his mother's death, his mother's cousin, Katherine Blaine, advised law enforcement that her cousin had recently died leaving behind Nikolas, and that he was reported to have rifles. She requested the Broward County Sheriff's office recover these weapons. On November 17th, he was reported for digging holes and burying guns in his backyard. On November 29th, a family friend with whom he was staying called 911 to report Nick was beating up his cousin. On November 30, 2017, the Broward County Sheriff's Office received a tip that Cruz could become a school shooter. The report stated: Caller advised subject Nikolas Cruz is collecting guns and knives … concerned he will kill himself one day and believes he could be a school shooter in the making. In this same time period, a caller from Massachusetts told the sheriff's office that Cruz was collecting guns and knives and could kill himself or become a school shooter. In 2018, the FBI received a tip that Cruz might shoot up a school. The tip was from "a person close to Nikolas Cruz" that was concerned about Cruz "getting into a school and just shooting the place up." The caller reported concerns about Cruz's and the potential of him conducting a school shooting. On February 14, 2018, Nikolas Cruz went to Marjory Stoneman Douglas High School, after repeatedly warning everyone, including the FBI, the Broward County Sheriff, the mental-health folks and killed 17 people. Was the issue the gun, or was it the total breakdown of law enforcement and mental-health professionals in that area to see what any common sense person in this chain of events would have seen? This was a preventable tragedy. To have it continually exploited in the media as requiring background checks as a way to stop this shooting in the future is pure nonsense.

Is this the pattern of conduct we are looking to catch? If so, that is what this bill addresses. The aunt who was looking after her cousin's child could have reported him and had his guns taken away. The Broward County Sheriff, after multiple visits to his home and multiple reports, would have been able to file a petition under this bill and taken away his guns. I understand many of my colleagues may not believe background checks were the answer, but I do not think anyone can argue that this bill does not address this scenario. I urge your support.

SENATOR PICKARD:

I appreciate my colleague from District 11 because she makes an excellent point. The shooter had been diagnosed with mental-health issues, and it had been pointed out to law enforcement, mental health and school officials that he had problems. They were well documented and well established, and the system failed. This bill does not strengthen Nevada's laws regarding mental health. It does not add to what we already have to prevent anyone who has a diagnosed mental-health issue from obtaining a firearm. This bill goes straight from a third-party allegation to the removal of the firearm. We do that regularly with temporary protection orders (TPOs). This bill is easier than a TPO to obtain and does not address the problem my colleague just mentioned. It does not address how we deal with mental illness; we skip over that part. By doing this, it does not meet constitutional muster.

SENATOR HANSEN:

The point of the Stoneman case is that there were many laws in place to do with those things. It was not a situation where anybody in the entire chain said there was the absence of a law so

nothing could be done. It was just the opposite. Law after law and regulation after regulation was ignored.

I mentioned that women were 16 times more likely to be victimized in domestic violence situations. This is why women have started to arm themselves. It is unfortunate they find themselves in that circumstance, but reality is that is why the CCW numbers have spiked, because of that unfortunate reality in our society. There are cases, though much rarer, of men who are victimized in cases of domestic violence. This is number is substantially less, but it does occur. If this law goes into place and these low standards occur, there is the possibility that a bitter, vindictive ex-husband, husband or boyfriend could go to a judge and say he was threatened with violence, the woman had purchase the firearm within four months, and he wants her disarmed. This is admittedly a longshot, but it could occur under the law. If we are worried about a single person being killed, we should consider this. Women are at a physical disadvantage when in these horrible situations, and this is one of the things that helps equalize the situation. I do not want to take that away. It is unfortunate this occurs, but it is a reality.

This law has nothing new. There are protective orders that exist to deal with all of these situations. If someone is threatening suicide, there are laws on the books a law enforcement officer can use to disarm them and prevent them from harming themselves. More importantly, if someone is threatening someone else in a physical way, there are laws on the books that would allow law enforcement to strip them of their weapons. I again urge my colleagues to vote "no" on Assembly Bill No. 291.

Roll call on Assembly Bill No. 291:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

EXCUSED—Washington.

Assembly Bill No. 291 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 364.

Bill read third time.

Remarks by Senator Brooks.

Assembly Bill No. 364 revises provisions governing the transfer, title and sale of manufactured homes. The bill authorizes the issuance of an ownership certificate by the Housing Division of the Department of Business and Industry to a person who is unable to provide satisfactory information of ownership for certain manufactured homes. To obtain such a certificate, the person must file with the Division a bond in an amount equal to one and one-half times the assessed value of the manufactured home and allow an inspection by the Division to determine compliance with certain safety standards. The bill prevents any right of action against the Division for taking certain actions or failing to act in providing a certificate of ownership pursuant to that section.

This bill authorizes the owner or owners of certain manufactured homes to request from the Division a certificate of ownership in beneficiary form which directs the Division to transfer the certificate of ownership to a designated beneficiary upon the owner's death.

Roll call on Assembly Bill No. 364:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 364 having received a two-thirds majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 383.

Bill read third time.

Remarks by Senator Scheible.

Assembly Bill No. 383 requires the State Treasurer to designate a Student Loan Ombudsman within the Office of the State Treasurer to assist student loan borrowers in understanding their rights and responsibilities under the terms of student education loans and to carry out other duties as prescribed. The bill expands the authorized use of money in the Endowment Account that was established in the State General Fund for purposes relating to higher education and financial education to be used to carry out the Student Loan Ombudsman Program. The Office of the State Treasurer shall submit certain reports to the Legislature concerning the overall effectiveness of the Student Loan Ombudsman.

Roll call on Assembly Bill No. 383:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 383 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 449.

Bill read third time.

Remarks by Senator Ohrenschall.

Assembly Bill No. 449 directs the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study of juvenile detention in Nevada during the 2019-2020 Interim. The study must consider a regional approach to housing juvenile offenders, review the adequacy of current institutions and facilities to house juvenile offenders, review the adequacy of family and community engagement and analyze current offerings of educational and health programming in these institutions and facilities. In addition, the study must review practices in other states, including housing youth offenders tried as adults as well as sentencing standards and practices. The study must take into account facilities, programs and services available to youths deemed incompetent.

The Committee may seek technical assistance from State and national experts and must receive data, trends and other information from Nevada's Department of Corrections and State and local facilities for housing juvenile offenders. Finally, the Committee shall submit its report of findings and recommendations to the Director of the Legislative Counsel Bureau in time for the 81st Session of the Nevada Legislature.

Roll call on Assembly Bill No. 449:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 449 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 456.

Bill read third time.

Remarks by Senator Spearman.

Assembly Bill No. 456 requires each employer to pay each employee, beginning on July 1, 2019, a minimum wage of $8.25 per hour worked if the employer does not offer health benefits and $7.25 per hour worked if the employer offers health benefits. The bill provides that every year

thereafter, until 2024, on July 1, the minimum wage will increase by 75 cents until it reaches $12 per hour worked if the employer does not offer health benefits or $11 per hour worked if the employer offers health benefits. This bill removes certain exceptions to the minimum-wage requirement, which have been held to be unconstitutional by the Nevada Supreme Court. Finally, this bill requires the Labor Commissioner to adopt any regulations necessary to administer and enforce the minimum-wage laws.

Roll call on Assembly Bill No. 456:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Seevers Gansert, Settelmeyer— 7.

EXCUSED—Washington.

Assembly Bill No. 456 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 466.

Bill read third time.

Remarks by Senator Kieckhefer.

Assembly Bill No. 466 requires the State Treasurer to create a pilot program for the establishment of one or more closed-loop payment processing systems that enable certain persons to engage in financial transactions relating to marijuana in a safe and efficient cashless manner. The State Treasurer shall adopt regulations necessary to carry out the pilot program and prepare and present a detailed plan for the establishment of a closed-loop payment processing system to the Interim Finance Committee (IFC) for its review and approval. Upon approval by the IFC, at least one closed-loop payment processing system must begin operating not later than July 1, 2020. On or before December 1, 2020, and every six months thereafter, the State Treasurer shall submit certain reports related to the pilot program to the Legislature.

Conflict of interest declared by Senator Ohrenschall.

Roll call on Assembly Bill No. 466:

YEAS—19.

NAYS—None.

NOT VOTING—Ohrenschall.

EXCUSED—Washington.

Assembly Bill No. 466 having received a two-thirds majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 476.

Bill read third time.

Remarks by Senator Parks.

Assembly Bill No. 476 recreates the Advisory Committee on Housing in the Department of Business and Industry and prescribes its membership, powers and duties. The bill creates the Private Activity Bond Council and requires the Advisory Committee to provide a report to the Bond Council concerning housing trends and goals in this State. The Bond Council is required to advise the Governor, the State Board of Finance or the Director of the Department on the allocation of the State ceiling for the issuance of private activity bonds, if requested. Finally, the bill authorizes the Advisory Committee to request one legislative measure at each regular Session of the Legislature.

Roll call on Assembly Bill No. 476:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Assembly Bill No. 476 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 494.

Bill read third time.

Remarks by Senator Ratti.

Assembly Bill No. 494 expands the allowable use of money transferred from the Board of Trustees of the Fund for Hospital Care to Indigent Persons to the Division of Health Care Financing and Policy of DHHS to include offsetting any decrease in savings generated by any component of the upper payment-limit program established under the State Plan for Medicaid that results from providing certain supplemental payments to hospitals from the Fund.

Roll call on Assembly Bill No. 494:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Assembly Bill No. 494 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 498.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 498 requires DHHS to include in the State Plan for Temporary Assistance for Needy Families, to the extent authorized by federal law, child-only assistance for a fictive kin who is caring for a child in foster care. The bill defines a fictive kin as a person who is not related by blood to the child but has a significant emotional and positive relationship with the child. The measure establishes that fictive kin are eligible for assistance pursuant to the Kinship Guardianship Assistance Program.

Roll call on Assembly Bill No. 498:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Assembly Bill No. 498 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 537.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 537 provides that in addition to any other remedy provided in statute, the State Department of Conservation and Natural Resources and the Division of Environmental Protection may compel compliance with certain environmental laws by an injunction or other

appropriate remedies. It is a good bill. I do not see where it extends a lot of new regulations, especially for point source regulation.

Roll call on Assembly Bill No. 537:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 537 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 10.

Resolution read third time.

Remarks by Senators Spearman, Settelmeyer and Pickard.

SENATOR SPEARMAN:

Assembly Joint Resolution No. 10 proposes to amend the *Nevada Constitution* to set the minimum wage at $12 per hour worked beginning July 1, 2024, regardless of whether the employer provides health benefits to employees. The joint resolution removes the annual adjustment to the minimum wage and, instead, provides that if at any time the federal-minimum wage is greater than $12 per hour worked, the minimum wage is increased to the amount established for the federal-minimum wage. Finally, this joint resolution allows the Legislature to establish a minimum wage that is greater than the hourly rate set forth in the Constitution. If approved in identical form during the 2021 Session of the Legislature, the proposal will be submitted to the voters for final approval or disapproval at the 2022 General Election. If approved by the voters, this measure is effective on July 1, 2024.

Simply put, voting for this resolution tells the people of Nevada we trust in them to make this decision.

SENATOR SETTELMEYER:

This seems similar to Assembly Bill No. 456, or is this just a way to get people to the polls?

SENATOR PICKARD:

I rise in opposition to Assembly Joint Resolution No. 10. Assembly Bill No. 456 was the prudent approach, which is why I voted in favor of it. Assembly Joint Resolution No. 10 would ensconce this in our Constitution, and as we all know, once something is put into the Constitution, it is almost impossible to remove it. We need to be flexible, as we discovered in 2007-2008 when we saw such a significant downturn in the economy and needed to respond. If higher wages than the market could support were ensconced in the Constitution, we would be unable to respond to it.

There is a need to increase the minimum wage in a prudent manner. We should do it gradually so we do not shock the system, and we should make sure we do not go higher than the market is already paying. I am familiar with several owners of McDonald's restaurants in southern Nevada. With our good employment situation, I know that not one of those McDonalds is paying minimum wage. They cannot afford to because they cannot find people if they do not raise their minimum entry wage to meet what the market demands. Market flexibility should be maintained. We entirely lose that if we put this in the Constitution. I am opposed to this, not because I do not believe we should be paying a decent wage for work performed; I demonstrated that a minute ago. This is not the way to do it, and I urge we vote this down.

Roll call on Assembly Joint Resolution No. 10:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

EXCUSED—Washington.

Assembly Joint Resolution No. 10 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was re-referred Senate Bill No. 80, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

JOYCE WOODHOUSE, *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 524.

Bill read second time and ordered to third reading.

Assembly Bill No. 536.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

Remarks by Senator Cannizzaro.

Senate Bill No. 3 requires an offender who claims that the time he or she has served has been inappropriately computed to exhaust all administrative remedies available before filing a petition for *habeas corpus* and requires a court to dismiss such a petition without prejudice if the offender fails to do so. The Department of Corrections must adopt regulations to establish procedures for resolving such a challenge within 180 days of the offender's release. Persons incarcerated outside Nevada while serving a term of imprisonment imposed by a Nevada court must file such a petition in the First Judicial District Court in Carson City. The provisions of this bill do not apply to a petition filed on or before January 1, 2020.

Roll call on Senate Bill No. 3:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 3 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 216.

Bill read third time.

Remarks by Senator Ohrenschall.

Senate Bill No. 216 includes the establishment of the Nevada Commission on Autism Spectrum Disorders in NRS. This has been operating under Executive Order since November 2008 and requires agencies that oversee programs that provide services to persons with autism spectrum disorders to report certain information concerning such programs to the Commission.

Roll call on Senate Bill No. 216:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 216 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 421.

Bill read third time.

Remarks by Senator Ohrenschall.

Senate Bill No. 421 requires the Governor's Office of Economic Development (GOED), to the extent money is available, to establish and carry out a program to facilitate the growth and safe integration of small, unmanned aircraft systems in Nevada. The bill authorizes the program to provide training, conduct testing and provide assistance with complying with any safety standards relating to small, unmanned aircraft developed by the Federal Aviation Administration. The bill authorizes GOED to enter into an agreement with a nonprofit organization for the operation of the program. Senate Bill No. 421 makes an appropriation from the State General Fund of $1 million to GOED to carry out the program. Any unspent amounts must be reverted to the State General Fund on or before September 17, 2021.

Members may have heard about the exciting things happening with Nevada Institute for Autonomous Services (NIAS), who is involved in the testing unmanned aircraft. They are performing tests in Reno, and the president of Poland is traveling to Nevada next month to observe what is going on. This appropriation will qualify NIAS for dollar-for-dollar matching funds from the federal government to help Nevada continue to be a leader in this emerging technology. I urge its passage.

Roll call on Senate Bill No. 421:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 421 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 8.

The following Assembly amendments were read:

Amendment No. 817.

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

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 ~~[.~~

~~(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.

~~[(d)]~~ *(d) Not enter, visit or patronize an establishment which offers a sexually related form of entertainment as its primary business . ~~[.~~*

~~*(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 ~~[,]~~ *:*

(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, ~~[within or]~~ outside that county or ~~[within or]~~ outside this State ~~[.]~~ *; 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 ~~[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.

Amendment No. 901.

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

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]~~ 551 (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 shall require as a condition of lifetime supervision, in addition to any other condition imposed pursuant to this section, that the sex offender:*

(a) Participate in and complete a program of professional counseling approved by the Division, unless, before commencing a program of lifetime supervision, the sex offender previously completed a program of professional counseling recommended or ordered by the Board or the court 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.

(c) Not possess any sexually explicit material that is harmful to minors as defined in NRS 201.257.

(d) Not enter, visit or patronize an establishment which offers a sexually related form of entertainment as its primary business.

(e) Inform the parole and probation officer assigned to the sex offender of any post office box used by the sex offender.

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 [:

(a) The] 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

(b) The Board states in writing the circumstances for imposing such a condition.] The provisions of this subsection do not apply to a device used by a sex offender within the course and scope of his or her employment.

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 or ordered by the Board or the court 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.] *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 [,] *:*

(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, [within or] outside that county or [within or] outside this State [.] *; 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 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.

Senator Cannizzaro moved that the Senate concur in Assembly Amendments Nos. 817, 901 to Senate Bill No. 8.

Remarks by Senator Cannizzaro.

These amendments made various changes to the items that would be required to be under lifetime supervision for offenders.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 218.

The following Assembly amendment was read:

Amendment No. 819.

SUMMARY—Revises provisions relating to domestic violence. (BDR 3-316)

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.

~~[2.]~~ *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.

~~[3.]~~ *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.

~~[4.]~~ *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.

~~[5.]~~ *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 ~~[4,]~~ *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.

~~[6.]~~ *7.* The court shall rule upon an application for a temporary order within 1 judicial day after it is filed.

~~[7.]~~ *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.

~~[8.]~~ *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 ~~[7.]~~ *8*.

~~[9.]~~ *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.]~~ *8*.

~~[10.]~~ *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 A ~~*[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]~~ *:*

1. A temporary ~~[or *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 *1.* 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.

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 819 to Senate Bill No. 218.

Remarks by Senator Cannizzaro.

Amendment No. 819 to Senate Bill No. 218 makes various changes to extended protective orders.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 221.

The following Assembly amendment was read:

Amendment No. 781.

SUMMARY—Revises provisions governing warnings against trespassing. (BDR 15-17)

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;~~

~~(c)~~] 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.

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 781 to Senate Bill No. 221.

Remarks by Senator Cannizzaro.

Amendment No. 781 to Senate Bill No. 221 revises the intervals for posting "no trespassing" signs and revises the definition of "cultivated land."

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 368.

The following Assembly amendment was read:

Amendment No. 822.

SUMMARY—Revises provisions relating to protections for victims of crime. (BDR ~~[2-166)]~~ 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]~~ 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 ~~[5]~~ 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 ~~[96]~~ 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,~~

~~whichever 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. ~~*[1.]*~~ *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

(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 ~~[:~~ ~~*(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.)

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 822 to Senate Bill No. 368.

Remarks by Senator Cannizzaro.

Assembly Amendment No. 822 to Senate Bill No. 368 deletes sections of the bill; revises section 2 by adding the definition of "person in a position of authority." It references language for The Sexual Assault Survivor's Bill of Rights. It changes times in section 17 from five years to three years. It adds language that the court must enter a finding of fact and allows either party to modify or vacate an order. It changes from 96 hours to 72 hours after the arrest of a person for adjudication of a child when the health authority must perform certain tests.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 431.

The following Assembly amendment was read:

Amendment No. 823.

SUMMARY—Revises provisions relating to participation in organized retail theft. (BDR 15-1151)

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.*

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 823 to Senate Bill No. 431.

Remarks by Senator Cannizzaro.

Assembly Amendment No. 823 to Senate Bill No. 431 changes definitions for knowingly and indirectly participating in organized-retail theft and changes time periods from 180 days to 120 days.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 435.

The following Assembly amendments were read:

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. ~~[or 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 releasee;]~~ 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. ~~[1. 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 ~~[:~~

~~(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.*

Amendment No. 920.

SUMMARY—Enacts provisions relating to claims for mental or physical injury. (BDR 2-1148)

AN ACT relating to claims for mental or physical injury; authorizing a party to void a release of liability under certain circumstances; enacting provisions relating to the exchange of medical and insurance information by certain persons involved in a claim for mental or physical injury asserted under a policy of insurance covering 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 ~~[30]~~ 60 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. Section 2 provides that in order to void the release of liability, the releasor must: (1) sign a written notice 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 consideration paid by the releasee.

Section 4 of this bill authorizes a party against whom a claim is asserted for a mental or physical injury under a policy of motor vehicle insurance to require the claimant or the claimant's attorney to provide to the party or the party's attorney and the insurer a written authorization to receive all medical reports, records and bills concerning the claim from the claimant's ~~[provider]~~ providers 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 within 10 days after receipt of a written authorization for ~~[a provider]~~ providers of health care to provide such reports, records and bills, the insurer who issued the policy must, upon request, provide ~~[a copy of the insurance policy and any endorsements, exclusions, limitations or restrictions modifying such a policy]~~ all pertinent facts or provisions of the policy relating to the coverage at issue, including policy limits, to the claimant 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. (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 ~~[30]~~ 60 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 injury; and

(b) Without the assistance or guidance of an attorney.

2. To void the release of liability pursuant to subsection 1, the releasor shall:

(a) Sign a written notice 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 and any consideration described in subsection 2 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.

(c) "Releasee" means a party who is being released by the releasor from any claim described in subsection 1.

(d) "Releasor" means a party who agrees to release the releasee from any claim described in subsection 1.

Sec. 3. (Deleted by amendment.)

Sec. 4. Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any party against whom a claim is asserted for compensation or damages for any mental or physical injury under a policy of motor vehicle insurance 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 a written authorization to receive all medical reports, records and bills related to the claim from the ~~[provider]~~ providers of health care. 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 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.

3. Within 10 days after receipt of a written authorization pursuant to subsection 1, the insurer who issued the policy specified in subsection 1 shall, upon request, 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.]~~ all pertinent facts or provisions of the policy relating to any coverage at issue, including policy limits.

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, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Senator Cannizzaro moved that the Senate concur in Assembly Amendments Nos. 720, 920 to Senate Bill No. 435.

Remarks by Senator Cannizzaro.

Assembly Amendment No. 720 and Amendment No. 920 to Senate Bill No. 435 shorten the time set for a release of liability from 60 days to 30 days. The amendments clarify the start date for the 30-day period and the process for voiding a release. They add a definition of "personal injury" and revise the discovery rules governing claims for compensation or damages. They change the time release from 30 days to 60 days that may relate to a personal injury to be voided and revise the information that health-care providers must provide.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Joint Resolution No. 1.

The following Assembly amendment was read:

Amendment No. 749.

SUMMARY—Urges Congress to require the Bureau of Land Management and the United States Forest Service to include cheatgrass in certain forage estimates. (BDR R-257)

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.

Senator Scheible moved that the Senate do not concur in Assembly Amendment No. 749 to Senate Joint Resolution No. 1.

Remarks by Senator Scheible.

Amendment No. 749 to Senate Joint Resolution No. 1 would add provisions referring to highly targeted and managed livestock grazing, including areas of cheatgrass monoculture, as opposed to the current resolution that addresses cheatgrass in multiple types of environments and the calculation for temporary nonrenewable use.

Motion carried.

Bill ordered transmitted to the Assembly.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 69, 111, 153, 537, 542, 545; Assembly Bills Nos. 541, 542.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 541.

Senator Ratti moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 542.

Senator Ratti moved that the bill be referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 80.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1039.

SUMMARY—Revises provisions relating to providing a safe and respectful learning environment. (BDR 34-502)

AN ACT relating to the welfare of pupils; renaming the Safe-to-Tell Program within the Office for a Safe and Respectful Learning Environment within the Department of Education as the SafeVoice Program; requiring the establishment of the Handle with Care Program; requiring officers and employees of law enforcement agencies to ~~[report to]~~ notify the Handle with

Care Program of certain information about a child who may attend a public school and has been exposed to certain events; requiring information submitted to the Handle with Care Program to be provided to certain school personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the establishment of the Safe-to-Tell Program within the Office for a Safe and Respectful Learning Environment within the Department of Education. That Program allows a person to make an anonymous report to a support center regarding dangerous, violent or unlawful activity that is conducted, or threatened to be conducted, on property of a public school or in certain other circumstances related to public schools. (NRS 388.1455) Any anonymous tip made through the Safe-to-Tell Program is then forwarded to certain trained personnel at the public school to take appropriate action. (NRS 388.14553) Sections 5 and 7 of this bill change the name of the Safe-to-Tell Program to instead be the SafeVoice Program. Sections 3-13 of this bill make conforming changes.

Section 3 of this bill similarly requires the establishment of the Handle with Care Program within the Office for a Safe and Respectful Learning Environment to receive ~~[reports]~~ notifications from law enforcement officers or agencies when a child is exposed to a traumatic event as required by section 14 of this bill. Section 3 requires the Handle with Care Program to use the support center of the Safe-to-Tell Program or a similar program as identified by a school district for such ~~[reports.]~~ notifications. Section 3 limits the information to be included in the ~~[report]~~ notification to only certain identifying information regarding the child, except that, an officer or employee of a law enforcement agency may include additional information about the event if the officer or employee believes that disclosing such information is in the best interest of the child or is necessary for reasons related to school safety. Upon receipt of ~~[a report,]~~ notification, section 3 requires the support center to determine whether the child attends a public school and if so, to notify certain trained personnel of the public school of the ~~[report.]~~ traumatic event. Section ~~[7]~~ 8 of this bill requires those trained personnel to take appropriate action in accordance with their training when they receive ~~[a report]~~ notification that a pupil has been exposed to a traumatic event. (NRS 388.14553)

Existing law requires the Director of the Office for a Safe and Respectful Learning Environment to provide training related to the Safe-to-Tell Program to certain public school personnel. (NRS 388.1455) Section 3 additionally requires the Director to provide training regarding the Handle with Care Program to certain persons who will be involved with the Program.

Existing law provides immunity from liability to certain trained personnel of the public school appointed to respond to reports submitted to the Safe-to-Tell Program for acts or omissions of those personnel in carrying out their duties relating to the Program. (NRS 388.14555) Section 9 of this bill

expands that immunity to when such personnel carry out their duties relating to the Handle with Care Program.

~~[Under~~ ~~section]~~ Section 14 ~~[,]~~ requires a law enforcement officer or employee of a law enforcement agency to notify the Program of a traumatic event ~~[must be reported if it]~~ if the event involves: (1) domestic violence in the presence of the child; (2) the death of a member of the family or household of the child; (3) the arrest of a parent or guardian of the child in the presence of the child; and (4) child abuse or neglect. Section 14 also authorizes an officer or employee of a law enforcement agency to ~~[submit a report to]~~ notify the Program if the officer or employee reasonably believes a child has been exposed to any other event that may affect his or her ability to succeed at school. Section 14 provides that ~~[a report]~~ notification is not required if disclosure of information that would be contained in the ~~[report]~~ notification may compromise an ongoing investigation.

Sections 4 and 10 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 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Handle with Care Program" means the Program established pursuant to section 3 of this act.*

Sec. 3. *1. The Director shall establish the Handle with Care Program within the Office for a Safe and Respectful Learning Environment. The Handle with Care Program must enable a law enforcement officer or agency to ~~[report to]~~ notify the Program when a child who may attend a public school is exposed to a traumatic event or other event that may affect his or her ability to succeed at school as described in section 14 of this act.*

2. The Handle with Care Program must use the support center established for the SafeVoice Program and teams appointed pursuant to NRS 388.14553 or a similar program designated by a school district. The support center shall establish a separate hotline and any other appropriate method to allow a law enforcement officer or agency to ~~[submit a report pursuant to]~~ provide the notification described in subsection 1.

3. ~~[A report]~~ Notification submitted by a law enforcement officer or employee of a law enforcement agency must include only identifying information about the child. Such information must include, to the extent that it is available, the name of the child, the grade and school where the child is enrolled and the date of birth of the child.

4. The ~~[report]~~ notification may include basic information about the traumatic event if the law enforcement officer or employee reasonably believes that disclosing such information is in the best interest of the child or necessary for reasons related to school safety.

5. Upon ~~[receipt of a report,]~~ receiving notification from a law enforcement officer or employee of a law enforcement agency, the support center shall determine whether the child attends a public school in this State.

If so, the team appointed pursuant to NRS 388.14553 must be notified that the child has been exposed to a traumatic event.

6. The Director shall provide training regarding:

(a) The Handle with Care Program to law enforcement agencies and employees of law enforcement agencies that may respond to a traumatic event involving a child, the board of trustees of a school district, the governing body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program;

(b) The procedure for ~~[making a report to]~~ notifying the support center when a child who may attend a public school is exposed to a traumatic event or other event that may affect his or her ability to succeed at school and the information to ~~[provide when making a report;]~~ include in the notification;

(c) Properly responding to ~~[a report]~~ notification received from the support center, including , without limitation, the manner in which to respond to ~~[a report]~~ notification through the Handle with Care Program , to each member of a team appointed pursuant to NRS 388.14553; and

(d) Collaboration with teachers and other members of the staff of a school, pupils, family members of pupils and other persons, as appropriate, to reduce the negative impact of the traumatic event on the affected pupil and appropriate interventions that may be available to assist the pupil.

7. The State Board shall adopt regulations necessary to carry out the provisions of this section.

Sec. 4. NRS 388.1451 is hereby amended to read as follows:

388.1451 As used in NRS 388.1451 to 388.1459, inclusive, *and sections 2 and 3 of this act,* unless the context otherwise requires, the words and terms defined in NRS 388.1452 to 388.14535, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 388.1453 is hereby amended to read as follows:

388.1453 ~~["Safe to Tell Program" or "Program"]~~ *"SafeVoice Program"* means the ~~[Safe to Tell]~~ *SafeVoice* Program established within the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1455.

Sec. 6. NRS 388.1454 is hereby amended to read as follows:

388.1454 The Legislature hereby finds and declares that ~~[:]~~ *a SafeVoice Program is necessary because:*

1. The ability to anonymously report information about dangerous, violent or unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school is critical in preventing, responding to and recovering from such activities.

2. It is in the best interest of this State to ensure the anonymity of a person who reports such an activity, or the threat of such an activity, and who wishes to remain anonymous and to ensure the confidentiality of any record or information associated with such a report.

3. It is the intent of the Legislature ~~[in enacting NRS 388.1451 to 388.1459, inclusive,]~~ to enable the people of this State to easily and

anonymously provide to appropriate state or local public safety agencies and to school administrators information about dangerous, violent or unlawful activities, or the threat of such activities, conducted on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school.

Sec. 7. NRS 388.1455 is hereby amended to read as follows:

388.1455 1. The Director shall establish the ~~[Safe to Tell]~~ *SafeVoice* Program within the Office for a Safe and Respectful Learning Environment. The Program must enable any person to report anonymously to the Program any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on school property, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school. Any information relating to any such dangerous, violent or unlawful activity, or threat thereof, received by the Program is confidential and, except as otherwise authorized pursuant to paragraph (a) of subsection 2 and NRS 388.1458, must not be disclosed to any person.

2. The *SafeVoice* Program must include, without limitation, methods and procedures to ensure that:

(a) Information reported to the Program is promptly forwarded to the appropriate public safety agencies, the Department and other appropriate state agencies, school administrators and other school employees, including, without limitation, the teams appointed pursuant to NRS 388.14553; and

(b) The identity of a person who reports information to the Program:

(1) Is not known by any person designated by the Director to operate the Program;

(2) Is not known by any person employed by, contracting with, serving as a volunteer with or otherwise assisting an organization with whom the Director enters into an agreement pursuant to subsection 3; and

(3) Is not disclosed to any person.

3. On behalf of the *SafeVoice* Program, the Director or his or her designee shall establish and operate a support center that meets the requirements of NRS 388.14557, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application or enter into an agreement with an organization that the Director determines is appropriately qualified and experienced, pursuant to which the organization will establish and operate such a support center, which includes, without limitation, a hotline, Internet website, mobile telephone application and text messaging application. The support center shall receive initial reports made to the Program through the hotline, Internet website, mobile telephone application and text messaging application and forward the information contained in the reports in the manner required by subsection 2.

4. The Director shall provide training regarding:

(a) The Program to employees and volunteers of each public safety agency, public safety answering point, board of trustees of a school district, governing

body of a charter school and any other entity whose employees and volunteers the Director determines should receive training regarding the Program.

(b) Properly responding to a report received from the support center, including, without limitation, the manner in which to respond to reports of different types of dangerous, violent and unlawful activity and threats of such activity, to each member of a team appointed pursuant to NRS 388.14553.

(c) The procedure for making a report to the support center using the hotline, Internet website, mobile telephone application and text messaging application and collaborating to prevent dangerous, violent and unlawful activity directed at teachers and other members of the staff of a school, pupils, family members of pupils and other persons.

5. The Director shall:

(a) Post information concerning the *SafeVoice* Program on an Internet website maintained by the Director;

(b) Provide to each public school educational materials regarding the *SafeVoice* Program, including, without limitation, information about the telephone number, address of the Internet website, mobile telephone application, text messaging application and any other methods by which a report may be made; and

(c) On or before July 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education a report containing a summary of the information reported to the Director pursuant to NRS 388.14557 during the immediately preceding 12 months and any other information that the Director determines would assist the Committee to evaluate the *SafeVoice* Program.

6. As used in this section:

(a) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.

(b) "Public safety answering point" has the meaning ascribed to it in NRS 707.500.

Sec. 8. NRS 388.14553 is hereby amended to read as follows:

388.14553 1. The board of trustees of a school district or the governing body of a charter school shall:

(a) Appoint a team of at least three members of the staff of each public school, other than a charter school, that is located in the school district or of the charter school, as applicable, including, without limitation, a school counselor, psychologist, social worker or a similar person, if the school employs such a person on a full-time basis, and a school administrator. The team must receive notification if the support center receives ~~[a report]~~ *:*

(1) ~~*[Through]*~~ *A report through the SafeVoice Program* ~~*[,]*~~ of any dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on the property of the school, at an activity sponsored by the school, on a school bus of the school or by a pupil enrolled at the school* ~~[.]~~ *; or*

(2) ~~*[Through]*~~ *Notification through the Handle with Care Program* ~~*[,]*~~ *of a pupil who was exposed to a traumatic event.*

(b) Ensure that information concerning the *SafeVoice* Program, including, without limitation, the telephone number for the hotline established pursuant to NRS 388.1455:

(1) Appears on the back of any identification card issued to pupils and staff at the school; and

(2) Is posted in conspicuous locations around the school, which may include, without limitation, the front office, the cafeteria or a school bus.

2. Upon receiving notification from the support center ~~[of dangerous, violent or unlawful activity which is being conducted, or is threatened to be conducted, on the property of a public school, at an activity sponsored by a public school, on a school bus of a public school or by a pupil enrolled at a public school,]~~ *through the SafeVoice Program or the Handle with Care Program,* a member of the appropriate team appointed pursuant to paragraph (a) of subsection 1 shall take appropriate action in accordance with the training he or she has received pursuant to NRS 388.1455 *or section 3 of this act* to respond to the activity , ~~[or]~~ threat ~~[.]~~ *or traumatic event, as applicable.*

3. The team appointed pursuant to paragraph (a) of subsection 1 may:

(a) Include a person appointed by the public school pursuant to NRS 388.247 to a committee to review the plan developed for the school pursuant to NRS 388.243.

(b) Allow another person to temporarily serve on the team if a member of the team is unavailable.

Sec. 9. NRS 388.14555 is hereby amended to read as follows:

388.14555 The team appointed pursuant to NRS 388.14553 and each member of the team are immune from civil liability for any damages resulting from an act or omission of the team or the member or another member of the team in performing the duties set forth in NRS 388.1455 and 388.14553 ~~[.]~~ *and section 3 of this act.*

Sec. 10. NRS 388.14557 is hereby amended to read as follows:

388.14557 The support center must:

1. Be capable of receiving reports made ~~[using the hotline, Internet website, mobile telephone application and text messaging application established pursuant to NRS 388.1455;]~~ *through the SafeVoice Program and notification provided through the Handle with Care Program;*

2. Be available to receive reports *and notifications* and staffed with trained personnel 24 hours a day, 7 days a week, including holidays and other days when school is not in session;

3. Establish a process for handling a report *or notification* if personnel at the support center are unable to determine the location of the school or the person about whom the report *or notification* is made, or if the report *or notification* concerns a private school or an entity other than a school;

4. Train personnel at the support center who are involved in responding to reports *and notifications* to follow up on each report *or notification* by

gathering information necessary to determine the validity of the report *or notification* and the severity of any threat;

5. Use a software system that is resistant to hacking and copying of information to protect the anonymity of persons who submit reports ~~[;]~~ *and notifications;*

6. Develop and implement a standardized procedure for tracking the outcome of reports ~~[;]~~ *and notifications;*

7. Compile statistics to determine:

(a) The most frequent days of the week on which reports *and notifications* are made;

(b) The most frequent times of the day for making reports ~~[;]~~ *and providing notifications;*

(c) The types of dangerous, violent or unlawful activity that are reported and the frequency of reports of each type of dangerous, violent or unlawful activity;

(d) The frequency with which reports are submitted using the hotline, Internet website, mobile telephone application and text messaging application, respectively; and

(e) The outcome of reports ~~[;]~~ *and notifications;*

8. Submit to the Director a quarterly report that contains the information compiled pursuant to subsection 7 and any other information necessary for the Director to evaluate the ~~[Program]~~ *Programs* or that is requested by the Director; and

9. Provide each report received *through the SafeVoice Program* to the appropriate law enforcement agency.

Sec. 11. NRS 388.1457 is hereby amended to read as follows:

388.1457 1. The ~~[Safe to Tell]~~ *SafeVoice* Program Account is hereby created in the State General Fund.

2. Except as otherwise provided in subsection 4, the money in the Account may be used only to implement and operate the ~~[Safe to Tell]~~ *SafeVoice* Program.

3. The Account must be administered by the Director, who may:

(a) Apply for and accept any gift, donation, bequest, grant or other source of money for deposit in the Account; and

(b) Expend any money received pursuant to paragraph (a) in accordance with subsection 2.

4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

5. The money in the Account does not revert to the State General Fund at the end of any fiscal year.

6. The Director shall:

(a) Post on the Internet website maintained by the Department a list of each gift, donation, bequest, grant or other source of money, if any, received pursuant to subsection 3 for deposit in the Account and the name of the donor of each gift, donation, bequest, grant or other source of money;

(b) Update the list annually; and

(c) On or before February 1 of each year, transmit the list prepared for the immediately preceding year:

(1) In odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(2) In even-numbered years, to the Legislative Committee on Education.

Sec. 12. NRS 388.1458 is hereby amended to read as follows:

388.1458 1. Except as otherwise provided in this section or as otherwise authorized pursuant to paragraph (a) of subsection 2 of NRS 388.1455, a person must not be compelled to produce or disclose any record or information provided to the ~~[Safe to Tell]~~ *SafeVoice* Program.

2. A defendant in a criminal action may file a motion to compel a person to produce or disclose any record or information provided to the *SafeVoice* Program. A defendant in a criminal action who files such a motion shall serve a copy of the motion upon the prosecuting attorney and upon the Director, either or both of whom may file a response to the motion not later than a date determined by the court.

3. If the court grants a motion filed by a defendant in a criminal action pursuant to subsection 2, the court may conduct an in camera review of the record or information or make any other order which justice requires. Counsel for all parties shall be permitted to be present at every stage at which any counsel is permitted to be present. If the court determines that the record or information includes evidence that could be offered by the defendant to exculpate the defendant or to impeach the testimony of a witness, the court shall order the record or information to be provided to the defendant. The identity of any person who reported information to the ~~[Safe to Tell]~~ *SafeVoice* Program must be redacted from any record or information provided pursuant to this subsection, and the record or information may be subject to a protective order further redacting the record or information or otherwise limiting the use of the record or information.

4. The record of any information redacted pursuant to subsection 3 must be sealed and preserved to be made available to the appellate court in the event of an appeal. If the time for appeal expires without an appeal, the court shall provide the record to the ~~[Safe to Tell]~~ *SafeVoice* Program.

Sec. 13. NRS 388.1459 is hereby amended to read as follows:

388.1459 Except as otherwise provided in NRS 388.1458 or as otherwise authorized pursuant to paragraph (a) of subsection 2 of NRS 388.1455, the willful disclosure of a record or information of the ~~[Safe to Tell]~~ *SafeVoice* Program, including, without limitation, the identity of a person who reported information to the Program, or the willful neglect or refusal to obey any court order made pursuant to NRS 388.1458, is punishable as criminal contempt.

Sec. 14. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any officer or employee of a law enforcement agency who, in his or her professional or occupational capacity, knows or has reasonable cause to

believe that a child who may attend a public school has been exposed to a traumatic event shall ~~[submit a report to]~~ notify the Handle with Care Program established pursuant to section 3 of this act any time the traumatic event involves:

(a) Domestic violence in the presence of the child;

(b) Death of a member of the family or household of the child;

(c) Arrest of a parent or guardian of the child in the presence of the child; or

(d) Child abuse or neglect . ~~[;]~~

2. In addition to ~~[submitting a report]~~ providing the notification required by subsection 1, any officer or employee of a law enforcement agency may ~~[submit a report to]~~ notify the Handle with Care Program established pursuant to section 3 of this act if the officer or employee of a law enforcement agency reasonably believes a child who attends a public school has been exposed to any other event that may affect his or her ability to succeed at school.

3. Nothing in this section shall be construed to require an officer or employee of a law enforcement agency to ~~[submit a report]~~ provide notification pursuant to this section if the disclosure of information may compromise an ongoing investigation.

Sec. 14.5. The Legislative Counsel shall in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 15. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1039 to Senate Bill No. 80 revises sections 3 and 14 of the bill to require a law enforcement officer or agency to provide notification rather than report to the Handle with Care Program when a child is exposed to a traumatic event. The amendment revises sections 8 and 10 of the bill to require the SafeVoice Program Support Center to perform certain tasks if it receives notification through the SafeVoice Program or the Handle with Care Program.

Amendment adopted.

Bill read third time.

Remarks by Senators Denis and Pickard.

SENATOR DENIS:

Senate Bill No. 80 requires the Director of the Office for a Safe and Respectful Learning Environment in the Department of Education to establish the Handle with Care Program and provide training to school officials and other persons who will be involved with the program. The bill requires officers and employees of law enforcement agencies to notify the program with certain information about a child who may attend a public school and is exposed to a traumatic event that may affect his or her ability to succeed at school. The bill requires information about

such a child to be forwarded to certain school personnel and requires trained personnel to take appropriate actions in accordance with their training. The bill changes the name of the Safe-to-Tell Program to the SafeVoice Program, a program that enables any person to anonymously report dangerous, violent or unlawful activity related to public schools.

SENATOR PICKARD:
Please explain the difference between a report and notification in terms of the context of the Senate Bill No. 80.

SENATOR DENIS:
This nuance was requested by the Clark County School District.

SENATOR PICKARD:
So, there is no justification that this matches their language? Do you have any idea what the justification was for it?

SENATOR DENIS:
That was not discussed.

Roll call on Senate Bill No. 80:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Senate Bill No. 80 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam President appointed Senators Ratti, Spearman and Hardy as a Conference Committee to meet with a like Committee of the Assembly for the further consideration of Senate Bill No. 203.

Madam President appointed Senators Denis, Harris and Hammond as a Conference Committee to meet with a like Committee of the Assembly for the further consideration of Senate Bill No. 403.

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 4:16 p.m.

SENATE IN SESSION

At 11:22 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Education, to which were referred Assembly Bills Nos. 155, 235, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair*

Madam President:

Your Committee on Finance, to which was referred Assembly Bill No. 534, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 198, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Madam President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 216, 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

Madam President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 111, 345, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Joint Resolution No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

JAMES OHRENSCHALL, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 263, 427.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 96.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assemblyman Roberts.

For: Senate Bill No. 461.

To Waive:

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Friday, May 31, 2019.

NICOLE CANNIZZARO
Senate Majority Leader

JASON FRIERSON
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Spearman moved that Assembly Bill No. 77 be taken from the Secretary's desk and placed on the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 555—AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2019-2021 biennium; apportioning the State Distributive School Account in the State General Fund for the 2019-2021 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other

educational purposes; temporarily diverting the money from the State Supplemental School Support Account to the State Distributive School Account for use in funding operating costs and other expenditures of school districts and charter schools; and providing other matters properly relating thereto.

Senator Woodhouse moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 96.

Senator Ratti moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

SECOND READING AND AMENDMENT

Senate Joint Resolution No. 8.

Resolution read second time and ordered to third reading.

Assembly Bill No. 111.

Bill read second time and ordered to third reading.

Assembly Bill No. 155.

Bill read second time and ordered to third reading.

Assembly Bill No. 216.

Bill read second time and ordered to third reading.

Assembly Bill No. 235.

Bill read second time and ordered to third reading.

Assembly Bill No. 300.

Bill read second time and ordered to third reading.

Assembly Bill No. 345.

Bill read second time and ordered to third reading.

Assembly Bill No. 534.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 198.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1049.

SUMMARY— ~~[Revises provisions governing]~~ Requires analysis and reporting concerning the eligibility of children for Medicaid. (BDR ~~[38-744)]~~ S-744)

AN ACT relating to Medicaid; ~~[prescribing the manner in which the time period for which a child is eligible for coverage under the Medicaid program must be calculated;]~~ requiring the Division of Welfare and Supportive Services

of the Department of Health and Human Services to analyze and report certain information concerning the eligibility of children for Medicaid; making an appropriation; authorizing certain expenditures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~[: (1)]~~ requires the Department of Health and Human Services to administer the Medicaid program. ~~[; and (2) requires the State Plan for Medicaid to include certain provisions.]~~ (NRS 422.270 ~~[, 422.2717-422.27242)~~ Section 1 of this bill requires the State Plan to include a requirement that a child remain continuously eligible for coverage under the Medicaid program until the earliest of: (1) 12 months after the date on which the child is enrolled; (2) the child ceases to reside in this State; (3) the child's 19th birthday; (4) a voluntary request by the child or his or her representative to terminate the coverage of the child; (5) a determination by the Department that the child was found eligible because of an error, fraud, abuse or perjury; or (6) the death of the child. Section 1 also requires the State Plan to limit the period of continuous eligibility for coverage to not more than 12 months. Section 2 of this bill makes a conforming change.~~]~~) Section 3 of this bill requires the Division of Welfare and Supportive Services of the Department to conduct an analysis to determine the number of children during a certain period who have lost coverage under Medicaid within 12 months after the date on which the child was determined to be eligible for coverage. The analysis must also determine the number of such children who lost coverage for certain reasons. A report of the information must be submitted by the Department to the Legislature. Section 3 also requires the Department to provide to the Legislature a fiscal analysis of the cost of allowing certain such children to remain covered under Medicaid until 12 months after the date on which the child was determined eligible for coverage. Section 4 of this bill appropriates money to the Division to allow the Division to modify the computerized system used by the Division to maintain data concerning recipients of Medicaid as necessary to compile the data required by section 3. Section 5 of this bill authorizes certain additional expenditures for this same purpose.

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

Section 1. ~~[Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*The Director shall include in the State Plan for Medicaid requirements that:*~~

~~*1. A child under 19 years of age who is enrolled in Medicaid must remain continuously eligible for coverage under the Medicaid program until the earliest of:*~~

~~*(a) Twelve months after the date on which the child is enrolled in Medicaid;*~~

~~*(b) The date on which the child ceases to reside in this State;*~~

~~*(c) The child's 19th birthday;*~~

~~*(d) A voluntary request by the child or his or her representative to terminate the coverage of the child;*~~

~~*(e) A determination by the Department that the child was found eligible because of an error by the Department or fraud, abuse or perjury by the child or his or her representative; or*~~

~~*(f) The death of the child.*~~

~~*2. The period of continuous eligibility for coverage under the Medicaid program must not exceed 12 months.]*~~ (Deleted by amendment.)

Sec. 2. ~~[NRS 232.320 is hereby amended to read as follows:~~

~~232.320 1. The Director:~~

~~(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:~~

~~(1) The Administrator of the Aging and Disability Services Division;~~

~~(2) The Administrator of the Division of Welfare and Supportive Services;~~

~~(3) The Administrator of the Division of Child and Family Services;~~

~~(4) The Administrator of the Division of Health Care Financing and Policy; and~~

~~(5) The Administrator of the Division of Public and Behavioral Health.~~

~~(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and section 1 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.~~

~~(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.~~

~~(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:~~

~~(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;~~

~~(2) Set forth priorities for the provision of those services;~~

~~(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;~~

~~(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;~~

~~(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and~~

~~(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.~~

~~(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.~~

~~(f) Has such other powers and duties as are provided by law.~~

~~2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.]~~ (Deleted by amendment.)

Sec. 3. 1. The Division of Welfare and Supportive Services of the Department of Health and Human Services shall conduct an analysis to determine the total number of children in this State who lose or have lost coverage under Medicaid within 12 months after the date on which they were determined eligible for coverage during the period beginning July 1, 2019, and ending September 1, 2020, and, to the extent the information is available, before July 1, 2019. The analysis must further determine the number of such children who lose or have lost coverage during that period because:

(a) The child no longer resides in this State;

(b) The coverage of the child under Medicaid was voluntarily terminated by request;

(c) The child died;

(d) The child resides in a household with a household income that exceeds the maximum household income to be eligible for Medicaid;

(e) The child no longer resides in a household for which Medicaid eligibility has been granted; or

(f) The parent or guardian of the child failed to comply with the requirements to remain eligible for Medicaid.

2. On or before October 1, 2020, the Department of Health and Human Services shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care a report which must include, without limitation:

(a) The total number of children described in subsection 1 and the number of those children in each category described in paragraphs (a) to (f), inclusive, of subsection 1; and

(b) A fiscal analysis of the cost of amending the State Plan for Medicaid to allow a child who has been covered under Medicaid for less than 12 months to

continue to be covered until 12 months after the date on which the child was determined to be eligible for Medicaid despite becoming ineligible based on the household income of the child.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the Division of Welfare and Supportive Services of the Department of Health and Human Services the sum of $42,600 for the purpose of making any modifications to the computerized system used by the Division to maintain data concerning recipients of Medicaid that are necessary to carry out the provisions of section 3 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 5. Expenditure of $383,400 not appropriated from the State General Fund or the State Highway Fund is hereby authorized during Fiscal Year 2019-2020 and Fiscal Year 2020-2021 by the Division of Welfare and Supportive Services of the Department of Health and Human Services for the purpose of carrying out the provisions of section 3 of this act.

~~[Sec. 3.]~~ *Sec. 6.* This act becomes effective ~~[on July 1, 2019.]~~ upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1049 to Senate Bill No. 198 makes the following changes; eliminates provisions related to revising Medicaid eligibility; requires the Division of Welfare and Supportive Services of DHHS to implement information-system enhancements to expand reporting capabilities and to conduct an analysis of the reasons children lose Medicaid coverage; requires DHHS to provide a report by October 1, 2020, to the Legislative Committee on Health Care regarding the reasons children lose Medicaid coverage and the estimated cost of providing for 12 months of continuous eligibility for children; appropriates General Funds of $42,600, and authorizes non-General Fund revenues of $383,400 by the Division of Welfare and Supportive Services to implement information-system enhancements required by this act.

Amendment adopted.

Bill read third time.

Remarks by Senator Scheible.

Senate Bill No. 198 requires the Division of Welfare and Supportive Services to implement system-information enhancements to expand reporting capabilities and to conduct an analysis of the reasons children lose Medicaid coverage. The bill requires DHHS to provide a report by October 1, 2020, to the Legislative Committee on Health Care regarding the reasons children lose Medicaid coverage and the estimated cost of providing for 12 months of continuous eligibility for children. The bill appropriates General Funds of $42,600 to the Division of Welfare and Supportive Services to implement the enhancements and requires that any remaining balance of the appropriations must not be committed for expenditure after June 30, 2021. Any remaining balance must revert to the State General Fund on or before September 17, 2021. Senate Bill No. 198 authorizes non-General Fund revenues of $383,400 for the same purpose.

Roll call on Senate Bill No. 198:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Senate Bill No. 198 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 493.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1054.

SUMMARY—Revises provisions relating to misclassification of employees. (BDR 53-1087)

AN ACT relating to employee misclassification; requiring certain state agencies to share information relating to suspected employee misclassification under certain circumstances; creating the Task Force on Employee Misclassification; providing its duties; making various other changes relating to employee misclassification; providing an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill requires the offices of the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Attorney General to share amongst their respective offices information relating to suspected employee misclassification that is received in the performance of their official duties under certain circumstances. Section ~~[4]~~ 2 of this bill defines "employee misclassification" as the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

Section 8 of this bill creates and sets forth the membership of the Task Force on Employee Misclassification. Section 9 of this bill sets forth the duties of the Task Force.

~~[Existing law defines "independent contractor." (NRS 616A.255) Section 11.5 of this bill expands that definition.]~~ Existing law ~~[also]~~ provides that a person is conclusively presumed to be an independent contractor in certain circumstances. (NRS 608.0155) Section 10.5 of this bill clarifies that such an independent contractor must hold a state or local business license to operate in this State. Section 10.5 also provides that a natural person who is a contractor or subcontractor or who provides certain labor for a contractor or subcontractor and who meets certain requirements is presumed to be an

independent contractor. Existing law requires an employer to post a notice upon his or her premises that contains certain information. (NRS 616A.490) Section 11.7 of this bill requires such a notice to include the relevant definitions of "employee" and "independent contractor." Section ~~[11.3]~~ 10.3 of this bill authorizes the Labor Commissioner to impose various administrative penalties against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify an employee. Section ~~[13.5]~~ 10.4 of this bill authorizes a person to file a complaint with ~~[certain administrative agencies]~~ the Labor Commissioner to seek an administrative penalty.

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

Section 1. Chapter 607 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, ~~[the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.]~~ "employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

Sec. 3. ~~[*"Employee" means a person who performs services for wages for an employer. The term does not include an independent contractor.*]~~ (Deleted by amendment.)

Sec. 4. ~~[*"Employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*]~~ (Deleted by amendment.)

Sec. 5. ~~[*"Employer" includes, without limitation:*~~

~~*1. The State of Nevada, any state agency, or any county, city, town, school district or other unit of local government;*~~

~~*2. Any public or quasi-public corporation; and*~~

~~*3. Any person, firm, corporation, partnership or association.*]~~ (Deleted by amendment.)

Sec. 6. ~~[*"Independent contractor" has the meaning ascribed to it in NRS 616A.255.*]~~ (Deleted by amendment.)

Sec. 7. *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:*

1. Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.

2. May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

Sec. 8. *1. The Task Force on Employee Misclassification ~~[, consisting of 10 members,]~~ is hereby created.*

2. The ~~[following persons shall serve as ex officio members of the Task Force:~~

~~(a) The Labor Commissioner or the Labor Commissioner's designee.~~

~~(b) The Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's designee.~~

~~(c) The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Administrator's designee.~~

~~(d) The Executive Director of the Department of Taxation or the Executive Director's designee.~~

~~(e) The Attorney General or the Attorney General's designee.~~

~~3. The following persons shall serve as appointed members of the Task Force:]~~ Governor shall appoint to serve on the Task Force:

(a) One person who represents an employer located in this State that employs more than 500 full-time or part-time employees.

(b) One person who represents an employer located in this State that employs 500 or fewer full-time or part-time employees.

(c) One person who is an independent contractor in this State.

(d) ~~[One person]~~ Two persons who ~~[represents]~~ represent organized labor in this State.

(e) One person who represents ~~[the general public]~~ a trade or business association in this State.

(f) One person who represents a governmental agency that administers laws governing employee misclassification.

3. The Governor may appoint up to two additional members to serve on the Task Force as the Governor deems appropriate.

4. ~~[The members of the Task Force described in subsection 3:~~

~~(a) Must be appointed by the Legislative Commission from recommendations submitted to the Legislative Commission by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly.~~

~~(b)]~~ After the initial terms, the members of the Task Force serve a term of 2 years and until their respective successors are appointed. A member may be reappointed in the same manner as the original appointments.

5. Any vacancy occurring in the ~~[appointed]~~ membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

6. The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.

7. At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.

8. A majority of the members of the Task Force 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 Task Force.

9. The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.

10. Members of the Task Force serve without compensation.

11. The Labor Commissioner shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.

Sec. 9. *The Task Force on Employee Misclassification shall:*

1. Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.

2. Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.

3. Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.

4. On or before July 1, 2020, and on or before July 1 of each subsequent year, submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.

Sec. 10. *1. The Task Force on Employee Misclassification may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.*

2. The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.

3. The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the subcommittee.

Sec. 10.1. Chapter 608 of NRS is hereby amended by adding thereto the provisions set forth as sections 10.3 and 10.4 of this act.

Sec. 10.3. *1. An employer shall not:*

(a) Through means of coercion, misrepresentation or fraud, require a person to be classified as an independent contractor or form any business entity in order to classify the person as an independent contractor; or

(b) Willfully misclassify or otherwise willfully fail to properly classify a person as an independent contractor.

2. In addition to any other remedy or penalty provided by law, the Labor Commissioner may impose an administrative penalty against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an employee of the employer. An administrative penalty imposed pursuant to this section must be:

(a) For a first offense committed by an employer who unintentionally misclassifies or otherwise fails to properly classify a person as an employee of the employer, a warning issued to the employer by the Labor Commissioner.

(b) For a first offense committed by an employer who willfully misclassifies or otherwise willfully fails to properly classify a person as an employee of the employer, a fine of $2,500 for the first incident of willfully misclassifying or willfully failing to properly classify one or more persons as an employee of the employer imposed by the Labor Commissioner.

(c) For a second or subsequent offense, a fine of $5,000 for each employee who was willfully misclassified imposed by the Labor Commissioner.

3. Before the Labor Commissioner may enforce an administrative penalty against an employer for misclassifying or otherwise failing to properly classify an employee of the employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose an administrative penalty as set forth in subsection 2 if the Labor Commissioner finds that:

(a) The employer misclassified a person as an independent contractor; or

(b) The employer otherwise failed to properly classify a person as an employee of the employer.

Sec. 10.4. *1. An employer who is found after a hearing conducted in accordance with subsection 3 to have misclassified a person as an independent contractor is liable to such person for lost wages, benefits or other economic damages to make the person whole.*

2. A person may file a complaint alleging the misclassification of the person as an independent contractor with the Labor Commissioner. The Labor Commissioner shall make a determination on the allegations of the complaint within 120 days after receipt of the complaint. If the Labor Commissioner finds that an employer misclassified an employee as an independent contractor, the Labor Commissioner may impose the penalties set forth in subsection 1.

3. A hearing conducted pursuant to this section must be held in accordance with chapter 233B of NRS.

4. Each party to a hearing conducted pursuant to this section may petition for judicial review of the decision of the Labor Commissioner in the manner provided by chapter 233B of NRS.

Sec. 10.5. NRS 608.0155 is hereby amended to read as follows:

608.0155 1. ~~[For]~~ *Except as otherwise provided in subsection 2, for* the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance or bonding ~~[,]~~ *in order to operate in this State;* and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:

(I) Purchase or lease of ordinary tools, material and equipment regardless of source;

(II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and

(III) Lease of any work space from the principal required to perform the work for which the person was engaged.

➥ The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the basis of the amount of income the person receives, the equipment commonly used and the expenses commonly incurred in the trade or profession in which the person engages.

2. *A natural person is conclusively presumed to be an independent contractor if the person is a contractor or subcontractor licensed pursuant to chapter 624 of NRS or is directly compensated by a contractor or subcontractor licensed pursuant to chapter 624 of NRS for providing labor for which a license pursuant to chapter 624 of NRS is required to perform and:*

(a) The person has been and will continue to be free from control or direction over the performance of the services, both under his or her contract of service and in fact;

(b) The service is either outside the usual course of the business for which the service is performed or that the service is performed outside of all the places of business of the enterprises for which the service is performed; and

(c) The service is performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged, of the same nature as that involved in the contract of service.

3. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee.

~~[3.]~~ *4.* As used in this section, ~~["foreign]~~ *:*

(a) "Foreign national" has the meaning ascribed to it in NRS 294A.325.

(b) "Providing labor" does not include the delivery of supplies.

Sec. 11. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, *and section 7 of this act,* information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.037 and administered pursuant to NRS 223.820, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

➥ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the

disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. Upon the request of any district judge or jury commissioner of the judicial district in which the county is located, the Administrator shall, in accordance with other agreements entered into with other district courts and in compliance with 20 C.F.R. Part 603, and any other applicable federal laws and regulations governing the Division, furnish the name, address and date of birth of persons who receive benefits in any county, for use in the selection of trial jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list of such persons shall reimburse the Division for the reasonable cost of providing the requested information.

11. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the

Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

12. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

13. The Administrator, any employee or other person acting on behalf of the Administrator, or any employee or other person acting on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

(a) Uses or permits the use of the list for any political purpose;

(b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or

(c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 11.3. ~~[Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. In addition to any other remedy or penalty provided by law, the Labor Commissioner may impose an administrative penalty against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an employee of the employer. An administrative penalty imposed pursuant to this section must be:*~~

~~*(a) For a first offense committed by an employer who unintentionally misclassified or otherwise failed to properly classify a person as an employee of the employer, a warning issued to the employer by the Labor Commissioner.*~~

~~*(b) For a first offense committed by an employer who willfully misclassified or otherwise failed to properly classify a person as an employee of the employer, a fine of not more than $5,000 for each employee who was misclassified imposed by the Labor Commissioner.*~~

~~*(c) For a second offense:*~~

~~*(1) A fine of $5,000 for each employee who was misclassified imposed by the Labor Commissioner; and*~~

~~(2) The suspension of the state business license of the employer for not more than 1 year.~~

~~(d) For a third offense, the revocation of the state business license of the employer. An employer whose state business license was revoked pursuant to this paragraph shall not apply to the Secretary of State for a state business license for a period of 3 years, beginning on the date of the revocation of the employer's state business license.~~

~~2. If the state business license of an employer is suspended or revoked pursuant to subsection 1, the Labor Commissioner shall submit a notice of the suspension or revocation to the Secretary of State. The Labor Commissioner shall provide a copy of such notice to the employer.~~

~~3. Before the Labor Commissioner may enforce an administrative penalty against an employer for misclassifying or otherwise failing to properly classify an employee of the employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose an administrative penalty as set forth in subsection 1 if the Labor Commissioner finds that:~~

~~(a) The employer misclassified a person as an independent contractor; or~~

~~(b) The employer otherwise failed to properly classify a person as an employee of the employer.~~

~~4. As used in this section:~~

~~(a) "Employee" has the meaning ascribed to it in NRS 608.010.~~

~~(b) "Employer" has the meaning ascribed to it in NRS 608.011.~~

~~(c) "Independent contractor" has the meaning ascribed to it in NRS 616A.255.]~~ (Deleted by amendment.)

Sec. 11.5. ~~[NRS 616A.255 is hereby amended to read as follows:~~

~~616A.255 "Independent contractor" means any person who renders service for a specified recompense [for a specified result, under the control of the person's principal as to the result of the person's work only and not as to the means by which such result is accomplished.]~~ *and who:*

~~1. Has been and will continue to be free from control or direction exercised by a person with whom he or she entered into a contract of service or a person for whom he or she performs a service;~~

~~2. Performs a service that is outside of the scope of the usual course of business of the business for which the service is performed; and~~

~~3. Satisfies at least one of the following conditions:~~

~~(a) Performs a service in the course of a trade, occupation, profession or business that is established independently from the person with whom he or she contracts to perform or performs a service and which is of the same nature as that involved in the contract of service of performance of a service;~~

~~(b) Meets the requirements set forth in paragraph (a) of subsection 1 of NRS 608.0155; or~~

~~(c) Meets the requirements set forth in paragraph (b) of subsection 1 of NRS 608.0155.]~~ (Deleted by amendment.)

Sec. 11.7. NRS 616A.490 is hereby amended to read as follows:

616A.490 *1.* Every employer shall post a notice upon his or her premises in a conspicuous place identifying the employer's industrial insurer. The notice must ~~[include]~~ *:*

(a) Include the insurer's name, business address and telephone number and the name, business address and telephone number of its nearest adjuster in this State. The employer shall at all times maintain the notice provided for the information of his or her employees.

(b) Prominently set forth any applicable definitions of "employee" and "independent contractor," as those terms are defined in chapters 616A to 616D, inclusive, of NRS.

Sec. 12. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, *and section 7 of this act,* information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➥ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose

other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and

(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

➥ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 13. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, *and section 7 of this act,* the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

Sec. 13.5. ~~[Chapter 616D of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. An employer who is found after a hearing conducted in accordance with subsection 3 to have misclassified a person as an independent contractor is liable to such person for:*~~

~~*(a) Treble damages, including, without limitation, lost wages or benefits;*~~

~~*(b) Reasonable attorney's fees; and*~~

~~*(c) Costs.*~~

~~*2. A person may file a complaint alleging the misclassification of the person as an independent contractor with the Administrator, the Fraud Control Unit for Industrial Insurance or any other appropriate state agency. The Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section shall make a determination on the allegations of the complaint within 120 days after receipt of the complaint. If the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section finds that an employer misclassified an employee as an independent contractor, the Administrator, the Fraud Control Unit for Industrial Insurance or other state agency, as applicable, may impose the penalties set forth in subsection 1.*~~

~~*3. A hearing conducted pursuant to this section must be held in accordance with chapter 233B of NRS.*~~

~~*4. Each party may petition for judicial review of the decision of the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that holds a hearing on a complaint submitted pursuant to subsection 2 in the manner provided by chapter 233B of NRS.*~~

~~*5. As used in this section, "Fraud Control Unit for Industrial Insurance" means the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.]*~~ (Deleted by amendment.)

Sec. 14. 1. ~~[As soon as practicable after passage and approval of this act, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall solicit applications and make recommendations to the Legislative Commission for the appointment of members to the Task Force on Employee Misclassification who are described in subsection 3 of section 8 of this act.~~

~~2.]~~ As soon as practicable after July 1, 2019, the ~~[Legislative Commission]~~ Governor shall ~~[, after considering each recommendation received pursuant to subsection 1,]~~ appoint the members of the Task Force on Employee Misclassification described in ~~[subsection]~~ subsections 2 and 3 of section 8 of this act.

~~[3.]~~ 2. The terms of the members of the Task Force on Employee Misclassification appointed pursuant to subsection ~~[2]~~ 1 expire on June 30, 2021.

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. 1. This section and sections 14 and 15 of this act become effective upon passage and approval.

2. Sections 1 to ~~[13.5,]~~ 13, inclusive, of this act become effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1054 amends Senate Bill No. 493 to make the following changes: adds clarifying language regarding the definition of employee misclassification; makes changes to composition of the proposed Task Force on Employee Misclassification by including language specifying all members of the Task Force will be appointed by the Governor; establishes that a person is conclusively presumed to be an independent contractor if they are licensed as such by the State Contractors Board; adds clarifying language to establish that persons wishing to file a complaint regarding employee misclassification should file the complaint with the Office of the Labor Commissioner. The amendment gives the Office authority to assess administrative penalties against an employer who misclassifies an employee.

Amendment adopted.

Bill read third time.

Remarks by Senators Dondero Loop, Settelmeyer and Pickard.

SENATOR DONDERO LOOP:

Senate Bill No. 493 requires the Office of the Labor Commissioner; the Division of Industrial Relations; the Department of Employment, Training and Rehabilitation; the Department of Taxation, and the Office of the Attorney General to share amongst their offices information regarding suspected employee misclassification to the extent that confidentiality required by law is maintained. The bill establishes a Task Force on Employee Misclassification, whose duties would include evaluating policies and practices related to employee misclassification as well as developing recommendations for policies and legislation to reduce occurrences of employee misclassification. Senate Bill No. 493 authorizes the Office of the Labor Commissioner to impose administrative penalties against an employer who misclassifies an employee and allows a person to file a complaint with the Office to seek such a penalty.

SENATOR SETTELMEYER:

I appreciate the work the sponsor did on Senate Bill No. 493. There were many renditions done on this bill, and we were close on the policy. However, the fiscal note from the Labor Commissioner of $292,682 makes it something I cannot support as we try to figure out finances and where we want money to go.

SENATOR PICKARD:

In looking at section 10, subsection 2, of the amendment, it requires a person be licensed by the Contractor's Board to be classified as an independent contractor. In my experience as a contractor for many years, we had many independent contractors who would provide project-control services and others who did not have to have a license. This is over inclusive. I will be a "no" on Senate Bill No. 493.

Roll call on Senate Bill No. 493:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

EXCUSED—Washington.

Senate Bill No. 493 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 1051.

SUMMARY—Makes various changes to provisions governing the practice of optometry. (BDR 54-366)

AN ACT relating to optometry; authorizing an assistant to perform activities relating to optometry under certain circumstances; providing for the certification of a mobile optometry clinic; providing for certification by endorsement to treat a person diagnosed with glaucoma; revising the acts which constitute the practice of optometry; revising certain exemptions relating to the practice of optometry; revising provisions governing the Nevada State Board of Optometry and the Executive Director of the Board; revising provisions governing the preparation of a roster of licensees; authorizing the Board to adopt certain policies; requiring the Board to establish, review and revise a schedule of fees; revising provisions which authorize the Board to impose certain penalties; revising provisions governing the qualification and examination of an applicant for a license to practice optometry; expanding the period required for the renewal of a license to practice optometry; revising provisions governing the restoration of a license to practice optometry; revising the requirements for certification to prescribe pharmaceutical agents; revising provisions governing the issuance of a certificate to treat glaucoma; revising certain provisions governing disciplinary actions against a licensee; revising provisions relating to the submission of a complaint against a licensee; revising provisions governing the location at which a licensee practices optometry; prohibiting an optometrist from entering into certain leases with a person who is not licensed as an optometrist; prohibiting a person from directly or indirectly supervising an optometrist under certain circumstances; revising provisions governing service of process and the transmission of certain notices by the Board; authorizing any licensed optometrist to administer topical diagnostic ophthalmic agents; revising provisions governing the issuance of an administrative fine for certain violations; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law extensively regulates the practice of optometry in this State, including, without limitation, provisions governing the: (1) creation of the Nevada State Board of Optometry; (2) issuance and renewal of a license to practice optometry; (3) issuance and renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders; (4) certification of an optometrist to administer and prescribe therapeutic pharmaceutical agents; (5) issuance of a certificate

to treat persons diagnosed with glaucoma; and (6) payment of fees for such licenses and certificates. (Chapter 636 of NRS) This bill makes numerous changes to the provisions of existing law governing the practice of optometry.

Sections 2, 35-39 , 48.95 and ~~[60- 62]~~ 60-63 of this bill revise provisions governing the administering and prescribing of a pharmaceutical agent by an optometrist. Section 3 of this bill authorizes an assistant in any setting where optometry is practiced to fit ophthalmic lenses or spectacle lenses and perform certain other activities if the assistant acts under the direct supervision of a licensed optometrist. Section 4 of this bill sets forth the requirements for the issuance of a certificate to own or operate a mobile optometry clinic. Section 4.5 of this bill provides for the issuance of a certificate by endorsement to treat a person diagnosed with glaucoma. Sections 6-9 of this bill revise the definitions of "advertise," "contact lens," "diagnostic pharmaceutical agents" and "prescription." Section 10 of this bill expands the acts which constitute the practice of optometry to include, without limitation, removing eyelashes with forceps and closing the lacrimal punctum of an eye. Section 10.5 of this bill revises provisions concerning the applicability of chapter 636 of NRS governing the practice of optometry. Section 11 of this bill revises the circumstances under which a person is exempt from the provisions of chapter 636 of NRS regulating the practice of optometry.

Section 12 of this bill requires the Board to take certain actions at its first meeting held during each fiscal year. Section 13 of this bill repeals provisions which require the Executive Director of the Board to file a performance bond with the Governor. Section 14 of this bill clarifies that the Board may employ consultants. Section 15 of this bill amends certain provisions governing the filing of a complaint to initiate disciplinary action. Section 17 of this bill requires the Board to periodically prepare and make available a roster of all licensees. Section 18 of this bill authorizes the Board to adopt policies necessary to carry out the provisions of chapter 636 of NRS governing the practice of optometry. Section 19 of this bill revises certain provisions governing the accreditation of schools which teach optometry. Section 20 of this bill requires the Board to establish, review and revise a schedule of fees at least once every 2 years. Section 20 also sets forth the maximum amount of fees that the Board may include in the schedule.

Section 21 of this bill revises provisions which authorize the Board to impose certain penalties against a person who engages in the practice of optometry in this State without a license to practice optometry or a renewal card for the license. Sections 22-27 of this bill revise the requirements for the issuance of a license to practice optometry, including, without limitation, the examinations, scores and payment of fees required for the license. Section 28 of this bill requires the payment of a fee for the renewal of a license for an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders and revises the period during which the license is effective.

Sections 29-33 of this bill provide for the renewal of and the payment of fees for the renewal of a license to practice optometry on certain dates occurring during even-numbered years. Section 34 of this bill: (1) authorizes the restoration of a suspended license within 90 days after the license is suspended upon the completion of certain acts by the licensee; and (2) provides for the expiration of the license if those acts are not completed within that period.

Section 39 of this bill revises provisions relating to the prescription of a controlled substance by an optometrist.

Section 40 of this bill revises the circumstances under which an optometrist is required to obtain a certificate to treat persons diagnosed with glaucoma and to refer those persons to an ophthalmologist for treatment. Section 41 of this bill revises the requirements which the Board must include in its regulations relating to the issuance of a certificate to treat persons diagnosed with glaucoma. Section 41.5 of this bill clarifies that a person licensed to practice optometry in this State is subject to the jurisdiction of the Board regardless of whether the license is expired, suspended or revoked. Section 41.5 also revises the manner in which the Board may discipline a licensee.

Sections 42-45 of this bill revise the acts which constitute sufficient cause for disciplinary action or which constitute unethical or unprofessional conduct. Sections 46 and 47 of this bill revise the requirements for making and hearing a complaint against a licensee. Sections 48.3 and 48.6 of this bill revise: (1) the manner in which a disciplinary hearing must be conducted; and (2) the actions that the Board may take upon finding by a preponderance of the evidence that a person has engaged in one or more grounds for disciplinary action. Section 48.9 of this bill repeals certain provisions which authorize the appeal of a decision to revoke or suspend a license.

Section 49 of this bill prohibits an optometrist from owning all or any portion of an optometry practice under an assumed or fictitious name unless the optometrist is issued a certificate of registration to practice optometry under the assumed or fictitious name at a specific location. An application for the certificate must be accompanied by certain proof satisfactory to the Board. Section 49 also requires certain names to be displayed near the entrance of the office of an optometrist who is issued a certificate of registration. Section 50 of this bill revises provisions relating to the unauthorized use of a license to practice optometry or a renewal card for the license. Section 51 of this bill authorizes the Board or the Executive Director of the Board to issue a duplicate license and renewal card for each location at which a licensee practices optometry. Section 52 of this bill requires a licensee to notify the Executive Director in writing before establishing an additional location to practice optometry. Section 53 of this bill prohibits an optometrist from entering into certain leases with a person who is not licensed as an optometrist. Section 53.5 of this bill prohibits a person who is not licensed as an optometrist from supervising an optometrist or controlling, dictating or influencing the professional judgment of a licensed optometrist. Section 54 of this bill revises

the requirements for an optometrist to collaborate with an ophthalmologist. Section 55 of this bill sets forth the manner in which service of process must be made and authorizes the transmission by electronic mail or facsimile machine any notice that is required to be given by the Board or the Executive Director of the Board to a person. Section 56 of this bill authorizes any licensed optometrist to administer topical diagnostic ophthalmic agents. Section 57 of this bill revises provisions governing forms for prescriptions for contact lenses and prohibits a prescription for spectacle lenses from being construed in a certain manner. Section 59 of this bill provides that any person who is licensed under chapter 636 of NRS and who engages in certain grounds for disciplinary action is liable to the Board for an administrative fine of not more than $5,000 for each violation.

Section ~~[64]~~ 65 of this bill repeals certain provisions governing the practice of optometry.

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

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4.5, inclusive, of this act.

Sec. 2. *"Pharmaceutical agent" means any topical or oral drug used or prescribed by a licensee for the examination, management or treatment of an abnormality, disease or condition of the eye or its appendages, including, without limitation, any analgesic drug subject to the requirements of NRS 636.2882 or added to schedule III, schedule IV or schedule V by the State Board of Pharmacy by regulation pursuant to NRS 453.146. The term does not include any drug or other substance added to schedule I or schedule II by the State Board of Pharmacy pursuant to that section.*

Sec. 3. *1. In any setting where optometry is practiced, an assistant may fit ophthalmic lenses or spectacle lenses if the assistant acts under the direct supervision of a licensed optometrist.*

2. In addition to the provisions of subsection 1, an assistant in any setting where optometry is practiced may perform any of the following activities under the direct supervision of a licensed optometrist:

(a) Prepare a patient for examination.

(b) Collect preliminary data concerning a patient, including taking the medical history of the patient.

(c) Perform simple and noninvasive testing of a patient in preparation for any subjective refraction, testing, evaluation, interpretation, diagnosis or treatment of the patient by the licensed optometrist.

(d) For an ophthalmic purpose, administer any cycloplegic or mydriatic agent or topical anesthetic that is not a controlled substance.

(e) Use an ophthalmic device or oversee ocular exercises, visual training, visual therapy or visual rehabilitation as directed by a licensed optometrist.

3. If an assistant conducts any activities pursuant to subsection 2, the licensed optometrist must conduct the final eye examination of the patient.

4. As used in this section, "assistant" means a person employed by an optometrist or any medical provider or medical facility at which the optometrist provides or offers to provide his or her services as an optometrist.

Sec. 4. *1. Notwithstanding any provision of this chapter to the contrary, a licensee, nonprofit or charitable organization, governmental agency or school in this State who obtains a certificate pursuant to this section may own or operate a mobile optometry clinic pursuant to this section. An application for the issuance or renewal of a certificate to own or operate the clinic must be submitted on a form approved by the Board and include any fees established by the Board pursuant to subsection 4. As soon as practicable after receiving an application and the appropriate fees, the Board shall approve or deny the application based upon the criteria established by the Board pursuant to subsection 4. A certificate issued to own or operate a mobile optometry clinic must be renewed on or before March 1 of each even-numbered year.*

2. A certified mobile optometry clinic may include any equipment required to operate the clinic, including, without limitation, a motor vehicle or a motor vehicle and trailer which may be moved from one location to another. Any optometric services available at the clinic must be provided under the direction and control of a licensee. Any final examination of a patient at the mobile optometry clinic must be completed by the licensee.

3. A certified mobile optometry clinic may only provide optometric services to:

(a) Governmental agencies;

(b) Patients with impaired or restricted mobility;

(c) Members of low-income and other medically underserved groups in the State; and

(d) Academic programs.

4. The Board shall adopt:

(a) Regulations setting forth:

(1) The requirements for the issuance and renewal of a certificate to operate a mobile optometry clinic; and

(2) The amount of the fees for the issuance and renewal of the certificate; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 4.5. *1. The Board may issue a certificate by endorsement to treat a person diagnosed with glaucoma to an applicant who meets the requirements of this section.*

2. An applicant for a certificate by endorsement must submit an application to the Executive Director in a form prescribed by the Board. The application must include the following information:

(a) Proof satisfactory to the Board that the applicant:

(1) Holds a valid and unrestricted certificate or other credential approved by the Board to engage in the treatment of a person with glaucoma issued in any state, the District of Columbia, the Commonwealth of

Puerto Rico or any other territory or possession of the United States which the Board has determined was issued in accordance with requirements that are substantially similar to those applicable to the issuance of a certificate to treat persons diagnosed with glaucoma in this State pursuant to NRS 636.2893; and

(2) Has had no adverse actions reported to the National Practitioner Data Bank, or its successor organization, within the past 5 years;

(b) An affidavit stating that the information set forth in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement to treat a person diagnosed with glaucoma, the Executive Director shall provide a written notice to the applicant if any additional information is required to consider the application. Unless the application is denied for good cause, the Board shall approve the application and issue a certificate to treat a person diagnosed with glaucoma by endorsement within 45 days after receiving the application.

Sec. 5. NRS 636.015 is hereby amended to read as follows:

636.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 636.016 to ~~[636.024,]~~ *636.023*, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 636.016 is hereby amended to read as follows:

636.016 "Advertise" means the commercial use of any medium, including, but not limited to, *any brochures or business cards,* the *Internet,* radio or television, or a newspaper, magazine, sign or other printed ~~[matter,]~~ *or electronic medium,* by an optometrist to bring the services or materials offered by the optometrist to the attention of members of the general public.

Sec. 7. NRS 636.018 is hereby amended to read as follows:

636.018 "Contact lens" means an ophthalmic lens prescribed for application on the anterior surface of the eye. *The term includes any plano lens or cosmetic lens.*

Sec. 8. NRS 636.019 is hereby amended to read as follows:

636.019 "Diagnostic pharmaceutical agents" means ~~[topical ophthalmic anesthetics and topical cycloplegics, miotics and mydriatics.]~~ *any topical or oral agents used to examine and diagnose conditions of the eye or adnexa.*

Sec. 9. NRS 636.022 is hereby amended to read as follows:

636.022 "Prescription" means:

1. An order given individually for the person for whom prescribed, directly from a licensed optometrist who is certified to prescribe and administer ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288, or his or her agent, to a pharmacist or indirectly by means of an order signed by the licensed optometrist or an electronic transmission from the licensed optometrist to a pharmacist; or

2. A written direction from a licensed optometrist to:

(a) Prepare an ophthalmic lens for a patient; or

(b) Dispense a prepackaged contact lens that does not require any adjustment, modification or fitting.

Sec. 10. NRS 636.025 is hereby amended to read as follows:

636.025 1. The acts set forth in this section, or any of them, whether done severally, collectively or in combination with other acts that are not set forth in this section constitute practice in optometry within the purview of this chapter:

(a) Advertisement or representation as an optometrist.

(b) Adapting, or prescribing or dispensing, without prescription by a practitioner of optometry or medicine licensed in this State, any ophthalmic lens, frame or mounting, or any part thereof, for correction, relief or remedy of any abnormal condition or insufficiency of the eye or any appendage or visual process. The provisions of this paragraph do not prevent an optical mechanic from doing the mere mechanical work of replacement or duplication of the ophthalmic lens or prevent a licensed dispensing optician from engaging in the practice of ophthalmic dispensing.

(c) The examination *, evaluation, diagnosis and treatment* of the human eye and its appendages, the measurement of the powers or range of human vision ~~[,]~~ *by any means, including, without limitation, the use of an autorefractor or other automated testing device, unless performed under the direct responsibility of a licensed optometrist as authorized in section 3 of this act,* the determination of the accommodative and refractive states of the eye or the scope of its function in general, or the diagnosis or determination of any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(d) Prescribing, directing the use of or using any optical device in connection with ocular exercises, orthoptics *, vision rehabilitation, vision therapy* or visual training.

(e) The prescribing of contact lenses.

(f) The measurement, *initial* fitting *, as defined in NRS 636.387,* or adaptation of contact lenses to the human eye except under the direction *, responsibility* and supervision of ~~[a physician, surgeon or]~~ *an* optometrist licensed in the State of Nevada ~~[.]~~ *as authorized in section 3 of this act.*

(g) The topical use of ~~[diagnostic]~~ pharmaceutical agents to determine any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(h) Prescribing, directing the use of or using a ~~[therapeutic]~~ pharmaceutical agent *or device* to treat an abnormality of the eye or its appendages.

(i) Removing a foreign object from the surface or epithelium of the eye.

(j) *Removing eyelashes with forceps.*

(k) Closing the lacrimal punctum of the eye.

(l) The ordering *or performing* of laboratory tests *or imaging* to assist in the diagnosis of an abnormality of the eye or its appendages.

2. The provisions of this section do not authorize an optometrist to engage in any practice which includes:

(a) ~~[The incision or suturing of the eye or its appendages;]~~ *Any procedure using a laser, scalpel, needle or other instrument in which any human tissue is cut, burned or vaporized by incision, injection, ultrasound, laser, infusion, cryotherapy, radiation or other means;* or

(b) ~~[The use of lasers for surgical purposes.]~~ *Any procedure using an instrument which requires the closure of human tissue by suture, clamp or similar device.*

Sec. 10.5. NRS 636.027 is hereby amended to read as follows:

636.027 This chapter ~~[shall]~~ *:*

1. Applies to any person who is licensed to practice optometry pursuant to this chapter and any other person engaged in the practice of optometry in this State.

2. Must not be construed to apply to physicians and surgeons duly licensed to practice in this State.

Sec. 11. NRS 636.028 is hereby amended to read as follows:

636.028 1. Except as provided in subsection 2, a person is exempt from the provisions of this chapter regulating the practice of optometry if the person is engaged in a clinical program of a school or college of optometry accredited by the Board and if the person is ~~[:~~

~~(a) A]~~ *a* student who is enrolled in a clinical program of an undergraduate or graduate course of study in optometry at such a school or college ~~[; or~~

~~(b) Licensed to practice optometry in another state and is employed as a clinician or instructor at such a school or college.]~~ *and who has not received a degree of doctor of optometry.*

2. A person who is employed as a clinician or instructor and who engages in the practice of optometry in this State is required to be licensed by the Board.

Sec. 12. NRS 636.080 is hereby amended to read as follows:

636.080 1. ~~[Within a reasonable time after the appointment of a new member,]~~ *At the first meeting of the Board held each fiscal year,* the Board shall meet and organize by electing from its membership a President who shall hold office for 1 year and until the election and qualification of his or her successor.

2. The Board shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive compensation as set by the Board. The Executive Director must not be a member of the Board. If a vacancy occurs in the position of Executive Director, the Board may appoint one of its members to perform the duties of the Executive Director until the position is filled. A member of the Board who is appointed to perform the duties of the Executive Director is not entitled to receive any ~~[additional]~~ compensation for performing those duties.

Sec. 13. NRS 636.085 is hereby amended to read as follows:

636.085 ~~[1.]~~ The Executive Director shall ~~[, before undertaking the duties of Executive Director, make and deliver to the Governor a good and sufficient bond payable to the State of Nevada for the benefit of the Board, in the amount designated by the Board, conditioned upon the faithful~~

~~performance of his or her duties as Executive Director. The Executive Director shall file a copy of the bond with the Board.~~

~~2. The Executive Director shall]~~ receive, maintain and disburse money on behalf of the Board and shall perform all duties imposed upon him or her pursuant to the provisions of this chapter and such other duties as the Board may prescribe.

Sec. 14. NRS 636.090 is hereby amended to read as follows:

636.090 1. The Board may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators , *consultants* and other professional ~~[consultants]~~ and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board subject to the provisions of NRS 622A.200.

Sec. 15. NRS 636.107 is hereby amended to read as follows:

636.107 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, 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 are confidential ~~[.]~~ *unless the person against whom the complaint is filed submits a written statement to the Board requesting that the documents and other information be made public records.*

2. The ~~[complaint or other]~~ *charging* document ~~[filed by]~~ the Board *uses* to initiate disciplinary action *pursuant to chapter 622A of NRS* 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 from communicating or cooperating with or providing any documents or other information in the Board's possession concerning a licensee or pending investigation to any other licensing board or any other governmental agency that is investigating a person, including, without limitation, a law enforcement agency, agency of the federal government, licensing board in this State or any other state or territory of the United States. If any confidential information concerning an investigation is provided to another governmental agency pursuant to this section, the information remains confidential and may not be provided to any other person or governmental agency. To the extent practicable, any governmental agency that receives any confidential information from the Board pursuant to this section shall treat the information as confidential.

Sec. 16. (Deleted by amendment.)

Sec. 17. NRS 636.120 is hereby amended to read as follows:

636.120 ~~[Once each year, the]~~ *The* Board shall *periodically* prepare and ~~[distribute]~~ *make available* to all licensees a roster containing their names and *mailing* addresses.

Sec. 18. NRS 636.125 is hereby amended to read as follows:

636.125 The Board may adopt *policies* ~~[rules]~~ and regulations necessary to carry out the provisions of this chapter.

Sec. 19. NRS 636.135 is hereby amended to read as follows:

636.135 The Board shall accredit schools *, or approve the accreditation of schools by any nationally recognized accrediting organization or agency,* in and out of this State teaching the science and art of optometry which it finds ~~[are giving]~~ *provide* a sufficient and thorough course of study for the preparation of optometrists.

Sec. 20. NRS 636.143 is hereby amended to read as follows:

636.143 ~~[1. The]~~ *At least once every 2 years, the* Board shall *review and, if the Board deems it necessary,* establish *or revise,* within the limits prescribed a schedule of fees for the following purposes:

~~[Not less than Not more than~~
~~Examination ..... $100 $500~~
~~Reexamination ..... 100 500~~
~~Issuance of each license or duplicate license, including a license by endorsement ..... 35 75~~
~~Renewal of each license or duplicate license ..... 100 500~~
~~Issuance of a license for an extended clinical facility ..... 100 500~~
~~Issuance of a replacement renewal card for a license ..... 10 50~~

~~2. If an applicant submits an application for a license by endorsement pursuant to NRS 636.207, the Board shall collect not more than one-half of the fee established pursuant to subsection 1 for the initial issuance of the license.]~~

Not more than

1. Examinations $250
2. Applications for the issuance of a 1-year license $600
3. Renewal of a license $1,200
4. Granting certification or issuing certificates $1,000
5. Licensing of extended clinical facilities and other practice locations $500
6. Individually verifying licensure or disciplinary Status $100
7. Late fee $1,000
8. Any other service provided by the Board pursuant to this chapter $1,000

Sec. 21. NRS 636.145 is hereby amended to read as follows:

636.145 1. A person shall not engage in the practice of optometry in this State unless:

(a) The person has obtained a license pursuant to the provisions of this chapter; and

(b) Except for the year in which such license was issued, the person holds a current renewal card for the license.

2. *The Board shall conduct an investigation pursuant to subsection 3 if the Board receives a complaint which sets forth any reason to believe that a person has engaged in the practice of optometry in this State without a license issued pursuant to this chapter.*

3. In addition to any other penalty prescribed by law, if the Board *, after conducting an investigation and hearing in accordance with chapters 233B, 622 and 622A of NRS,* determines that a person has committed any act described in subsection 1, the Board may:

(a) Issue and serve on the person an order to cease and desist *from the practice of optometry* until the person obtains *a license* from the Board . ~~[the proper license or otherwise demonstrates that he or she is no longer in violation of subsection 1. An order to cease and desist must include a telephone number with which the person may contact the Board.]~~

(b) Issue a citation to the person. ~~[A citation issued pursuant to this paragraph must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this paragraph. Each activity in which the person is engaged constitutes a separate offense for which a separate citation may be issued. To appeal a citation, the person must submit a written request for a hearing to the Board not later than 30 days after the date of issuance of the citation.~~

~~(c) Assess against the person an administrative fine as provided in NRS 636.420.~~

~~(d)]~~ *(c)* Impose any combination of the penalties set forth in paragraphs (a) ~~[,]~~ *and* (b) . ~~[and (c).]~~

4. Unless the Board determines that extenuating circumstances exist, the Board shall forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices or offers to practice optometry without a license issued pursuant to this chapter.

5. Each instance of unlicensed activity constitutes a separate offense for which a separate citation may be issued.

Sec. 22. NRS 636.150 is hereby amended to read as follows:

636.150 Except as otherwise provided in NRS 636.206 and 636.207, any person applying for a license to practice optometry in this State must:

1. File proof of his or her qualifications;

2. ~~[Make application for an examination;~~

~~3.]~~ Take and pass ~~[the]~~ *each* examination ~~[;~~

~~4.]~~ *identified, administered or approved by the Board;*

3. Pay the prescribed fees; and

~~[5.]~~ *4.* Verify that all the information he or she has provided to the Board or to any other entity pursuant to the provisions of this chapter is true and correct.

Sec. 23. NRS 636.155 is hereby amended to read as follows:

636.155 Except as otherwise provided in NRS 636.206 and 636.207, an applicant must file with the Executive Director satisfactory proof that the applicant:

1. Is at least 21 years of age;

2. Is a citizen of the United States or is lawfully entitled to reside and work in this country;

3. ~~[Is of good moral character;~~

~~4. Has been certified or recertified as completing a course of cardiopulmonary resuscitation within the 12 month period immediately preceding the examination for licensure; and~~

~~5.]~~ Has graduated from a school of optometry accredited *or approved* by the ~~[established professional agency and the Board, maintaining a standard of 6 college years, and including, as a prerequisite to admission to the courses in optometry, at least 2 academic years of study in a college of arts and sciences accredited by the Association of American Universities or a similar regional accrediting agency.]~~ *Board pursuant to NRS 636.135;*

4. Has passed each part of the comprehensive national optometry examination administered by the National Board of Examiners in Optometry or its successor;

5. Has passed each examination identified, administered or approved by the Nevada State Board of Optometry pursuant to NRS 636.150; and

6. Has not been disciplined for harming a patient as a licensed optometrist in another state.

Sec. 24. NRS 636.170 is hereby amended to read as follows:

636.170 ~~[1. The Board shall:~~

~~(a) Conduct a regular annual examination, and may conduct a special examination when it deems that circumstances warrant such examination.~~

~~(b) Fix and announce the time and place of any examination at least 30 days prior to the day when it is to be commenced.~~

~~2.]~~ The member of the Board who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 25. NRS 636.180 is hereby amended to read as follows:

636.180 An examination must:

1. Be practical in character and design as determined by the Board;

2. Test the fitness of the examinee to practice optometry; *and*

3. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations . ~~[; and~~

~~4. Be conducted in the English language.]~~

Sec. 26. NRS 636.190 is hereby amended to read as follows:

636.190 Except as otherwise provided in NRS 622.090, a grade of ~~[75]~~ *70* or higher for each area tested ~~[on the examination]~~ is required to pass ~~[an]~~ *the* examination.

Sec. 27. NRS 636.215 is hereby amended to read as follows:

636.215 The Board shall execute a license for each person who has satisfied the requirements of NRS 636.150, *636.155,* 636.206 or 636.207 and submitted all information *and fees* required to complete an application for a license. A license must:

1. Certify that the licensee has been examined and found qualified to practice optometry in this State; and

2. ~~[Be signed by each member]~~ *Bear the signatures* of the *President of the* Board ~~[.]~~ *and the Executive Director.*

Sec. 28. NRS 636.227 is hereby amended to read as follows:

636.227 1. The Board may grant a license to an accredited school or college of optometry to establish an extended clinical facility for the treatment of visual disorders and shall adopt reasonable regulations and establish procedures for such purpose. If a license is granted, it is effective ~~[for]~~ only ~~[1]~~ *until February 28 of the next even-numbered* year unless renewed by the Board ~~[.]~~ *upon payment of the fee for the renewal of the license established pursuant to NRS 636.143.*

2. An accredited school or college of optometry which desires to establish an extended clinical facility for the treatment of visual disorders in this State must apply to the Board for a license, and the application must contain the following information:

(a) The name and address of the proposed facility;

(b) The date when the school or college desires to commence operation of the facility;

(c) A brief description of the facility and of the equipment which will be available for use there;

(d) The kinds of optometric services to be rendered; and

(e) The name and address of each instructor or clinician to be employed at the facility, his or her academic qualifications and any licenses which entitle the instructor or clinician to practice optometry in this or any other state.

3. Every school or college of optometry which operates a licensed facility in this State shall notify the Board if the school or college changes its instructors or clinicians, the location of the facility or the content of a clinical program.

4. Nothing in this section authorizes a licensed optometrist to engage in any acts which are beyond the scope of his or her license issued in accordance with the provisions of this chapter.

5. For the purposes of this section, "extended clinical facility for the treatment of visual disorders" means a clinical facility which renders optometric services and is operated by an accredited school or college of optometry, but which is located beyond the boundaries of the principal campus of the school or college.

Sec. 29. NRS 636.250 is hereby amended to read as follows:

636.250 A license issued under this chapter or any former law must be renewed pursuant to the provisions of NRS 636.250 to 636.285, inclusive, before March 1 of each *even-numbered* year.

Sec. 30. NRS 636.255 is hereby amended to read as follows:

636.255 The Executive Director shall ~~[mail]~~ *provide* a notice of *the deadline for the* renewal *of a license* to each licensee before February 1 of each *even-numbered* year. The failure of the Executive Director to notify a licensee does not excuse the licensee from the requirements of NRS 636.250.

Sec. 31. NRS 636.260 is hereby amended to read as follows:

636.260 1. Before March 1 of each *even-numbered* year, each licensee shall pay a renewal fee to the Executive Director in the amount ~~[specified in]~~ *established pursuant to* NRS 636.143. For the purposes of this subsection, the date of the postmark on any payment received by mail shall be deemed to be the date of receipt by the Executive Director.

2. The renewal fee must be accompanied by satisfactory evidence that the licensee has, within the immediately preceding ~~[12-month]~~ *24-month* period, completed the required number of hours in a course or courses of continuing education that have been approved by the Board. This evidence must be indicated on the form for proof of completion of continuing education that is furnished by the Board. The Board shall not require a licensee to complete more than ~~[24]~~ *40* hours of continuing education during each ~~[year.]~~ *period of renewal.* The Board may waive the requirement that a licensee complete all or part of the required number of hours of continuing education upon good cause shown by the licensee.

3. A licensee who is certified to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288 must, at the time of paying the renewal fee, present evidence satisfactory to the Executive Director that, during the ~~[12]~~ *24* months immediately preceding the payment of the renewal fee, the licensee completed an educational or postgraduate program approved by the Board. The Board shall establish the number of hours for completion of the program which must be not less than ~~[30]~~ *50* hours nor more than ~~[50]~~ *100* hours.

Sec. 32. NRS 636.265 is hereby amended to read as follows:

636.265 Upon payment of the renewal fee, submission of evidence of completion of the required number of hours of continuing education and submission of all information required to complete the renewal, the Executive Director shall execute and issue a renewal card for the license to the licensee, certifying that the license has been renewed for a ~~[12-month]~~ *24-month* period beginning March 1 of each *even-numbered* year. The renewal card must indicate the address of the place of the licensee's practice for which the card is issued and be displayed prominently at that location. The renewal card must be signed by the Executive Director . ~~[and sealed with the seal of the Board.]~~

Sec. 33. NRS 636.270 is hereby amended to read as follows:

636.270 If a licensee fails to comply with the provisions of NRS 636.260 on or before the prescribed date, the license must be suspended effective March 1 ~~[,]~~ *of the year of the prescribed date* and must remain suspended until it is restored in the manner specified in NRS 636.275 ~~[,]~~ *or expires pursuant to that section, whichever occurs first.*

Sec. 34. NRS 636.275 is hereby amended to read as follows:

636.275 1. A license which has been suspended for failure of the licensee to pay the ~~[annual]~~ renewal fee , ~~[or]~~ to submit all information required to complete the renewal *or to submit evidence of completion of the required number of hours of continuing education* may be restored at any time ~~[during the calendar year]~~ *within 90 days after the suspension of the license* upon the licensee:

(a) Paying the ~~[annual]~~ *renewal* fee;

(b) Paying ~~[the Executive Director]~~ a ~~[nonrenewal penalty]~~ *late fee* in the amount prescribed by ~~[NRS 636.285; and]~~ *the Board;*

(c) Submitting all required information ~~[.~~

~~2. A license which has been suspended for failure of the licensee to submit evidence of completion of]~~ *; and*

(d) Completing the required number of hours of continuing education . ~~[may be restored upon the licensee completing the continuing education, if such completion occurs during the calendar year in which the suspension has occurred.~~

~~3.]~~ *2.* Any license suspended pursuant to the provisions of NRS 636.270 ~~[must be revoked at the end of the calendar year during which it was suspended]~~ *expires 91 days after the suspension of the license* unless the license is restored pursuant to subsection 1 . ~~[or 2.]~~

Sec. 35. NRS 636.286 is hereby amended to read as follows:

636.286 An optometrist shall not administer or prescribe a ~~[therapeutic]~~ pharmaceutical agent *other than a diagnostic pharmaceutical agent* unless the optometrist has obtained a certificate pursuant to NRS 636.288.

Sec. 36. NRS 636.287 is hereby amended to read as follows:

636.287 The Board shall adopt regulations which prescribe the requirements for certification to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288. The requirements must include:

1. A license to practice optometry in this State;

2. The successful completion of the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry ~~[on or after January 1, 1993,]~~ or an equivalent examination approved by the Board; and

3. The successful completion of not fewer than 40 hours of clinical training in administering and prescribing ~~[therapeutic]~~ pharmaceutical agents in a training program which is conducted by an ophthalmologist and approved by the Board.

Sec. 37. NRS 636.288 is hereby amended to read as follows:

636.288 The Board shall provide to:

1. Each optometrist who has complied with the requirements adopted by the Board pursuant to NRS 636.287, a certificate to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents.

2. The State Board of Pharmacy the name of each optometrist it certifies pursuant to this section.

Sec. 38. NRS 636.2881 is hereby amended to read as follows:

636.2881 The Board shall, by regulation, require each optometrist who is certified to administer and prescribe ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288 and who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least 2 hours of training relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure. Any licensee may use such training to satisfy 2 hours of any continuing education requirement established by the Board.

Sec. 39. NRS 636.2882 is hereby amended to read as follows:

636.2882 An optometrist who is certified to administer and prescribe a ~~[therapeutic]~~ pharmaceutical agent pursuant to NRS 636.288 shall not prescribe ~~[an analgesic of hydrocodone with compounds, codeine with compounds or propoxyphene with compounds]~~ *a controlled substance* unless the optometrist:

1. Has completed an optometric examination of the patient for whom the ~~[therapeutic pharmaceutical agent]~~ *controlled substance* is prescribed;

2. Prescribes the ~~[therapeutic pharmaceutical agent]~~ *controlled substance* in an amount that *does not exceed 90 morphine milligram equivalents per day and* will not last more than 72 hours; and

3. Sets forth in the prescription for the ~~[therapeutic pharmaceutical agent]~~ *controlled substance* that the prescription may not be refilled ~~[.]~~ *without a subsequent examination of the patient by the optometrist.*

Sec. 40. NRS 636.2891 is hereby amended to read as follows:

636.2891 1. An optometrist shall not treat a person diagnosed with glaucoma unless the optometrist has been issued a certificate by the Board pursuant to NRS 636.2895 ~~[.]~~ *or certification by endorsement pursuant to section 4.5 of this act.*

2. An optometrist ~~[who]~~ , *regardless of whether he or she* has been issued a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895 *or certification by endorsement pursuant to section 4.5 of this act*, shall refer a patient diagnosed with glaucoma to an ophthalmologist for treatment if any one of the following is applicable:

(a) The patient is under 16 years of age.

(b) The patient has been diagnosed with ~~[malignant]~~ *any type of* glaucoma ~~[or neovascular]~~ *other than open angle* glaucoma.

(c) The patient has been diagnosed with acute closed angle glaucoma. The provisions of this paragraph do not prohibit the optometrist from administering *any* appropriate , *nonsurgical* emergency treatment to the patient.

~~[(d) The patient's glaucoma is caused by diabetes, and, after joint consultation with a physician who is treating the diabetes and an ophthalmologist, the physician or ophthalmologist determines that the patient should be treated by an ophthalmologist. If an optometrist determines that a~~

~~patient's glaucoma is caused by diabetes, the optometrist shall consult with a physician and ophthalmologist in the manner provided in this paragraph.]~~

Sec. 41. NRS 636.2893 is hereby amended to read as follows:

636.2893 The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2895. The requirements must include, without limitation:

1. A license to practice optometry in this State;

2. The successful completion of the "Treatment and Management of Ocular Disease Examination" administered by the National Board of Examiners in Optometry ~~[on or after January 1, 1993,]~~ or an equivalent examination approved by the Board; ~~[and]~~

3. Proof that each optometrist who applies for a certificate has treated at least 15 persons who were:

(a) Diagnosed with glaucoma by an ophthalmologist licensed in this State; and

(b) Treated by the optometrist, in consultation with that ophthalmologist, for at least 12 consecutive months ~~[.]~~ *; and*

4. A certificate to administer and prescribe pharmaceutical agents issued pursuant to NRS 636.288.

Sec. 41.5. NRS 636.290 is hereby amended to read as follows:

636.290 *1.* Any person licensed pursuant to the provisions of this chapter or engaged in the unlawful practice of optometry without a license may be disciplined by the Board for cause in the manner specified in this chapter. *A person licensed to practice optometry in this State is subject to the jurisdiction of the Board for any act specified in this chapter, regardless of whether the license is expired, suspended or revoked.*

2. Unless the Board takes action pursuant to NRS 636.325, the Board may discipline a licensee for a violation of any provision of this chapter or regulation adopted pursuant to this chapter in one or more of the following ways, with or without the imposition by the Board of a monetary penalty:

(a) Issuing a letter of public reprimand;

(b) Issuing an order to cease and desist;

(c) Issuing an order of probation for a specified period, with or without conditions;

(d) Issuing an order of suspension for a specified period, with or without conditions; or

(e) Issuing an order of revocation, with or without permission to apply for licensure at a future date.

Sec. 42. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

1. ~~[Affliction of the licensee with any communicable disease likely to be communicated to other persons.~~

~~2.~~ Commission by the licensee of a felony relating to the practice of optometry or a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.

~~3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.~~

~~4.~~ *2.* Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.

~~5.~~ *3.* Habitual drunkenness or addiction to any controlled substance.

~~6.~~ *4.* Gross incompetency.

~~7.~~ *5.* Affliction with any mental or physical disorder or disturbance seriously impairing his or her competency as an optometrist.

~~8.~~ *6.* Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

~~9.~~ *7.* Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

~~10.~~ *8.* Perpetration of unethical or unprofessional conduct in the practice of optometry.

~~11. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:~~

~~(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;~~

~~(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or~~

~~(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.~~

~~12.~~ *9.* Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

~~13.~~ *10.* Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➥ This subsection applies to an owner or other principal responsible for the operation of the facility.

~~14. Failure to obtain any training required by the Board pursuant to NRS 636.2881.~~

~~15.~~ *11.* Failure to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507, 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.

~~[16.]~~ *12.* Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule ~~[II,]~~ III or IV.

13. Any violation of a state or federal law or regulation relating to or involving the practice of optometry, including, without limitation, a violation relating to:

(a) The organizational structure or control of any optometric practice or entity;

(b) The maintenance, availability or distribution of any medical record of a patient;

(c) The improper disclosure of any protected information of a patient; and

(d) Fraud.

Sec. 43. NRS 636.300 is hereby amended to read as follows:

636.300 The following acts, among others, constitute unethical or unprofessional conduct:

1. Association as an optometrist with any person, firm or corporation violating this chapter.

2. Accepting employment, directly or indirectly, from a person not licensed to practice optometry in this State to assist the person in such practice or enabling the person to engage therein, except as authorized in NRS 636.347.

3. Signing the prescription blanks of another ~~[optometrist]~~ *person* or allowing another ~~[optometrist]~~ *person* to use his or her prescription blanks.

~~[4. Except as otherwise provided in NRS 636.372 and 636.373, practicing in or on premises where any materials other than those necessary to render optometric examinations or services are dispensed to the public, or where a business is being conducted not exclusively devoted to optometry or other healing arts and materials or merchandise are displayed having no relation to the practice of optometry or other healing arts.]~~

Sec. 44. NRS 636.301 is hereby amended to read as follows:

636.301 The following acts, among others, constitute unethical or unprofessional conduct:

1. Division of fees with another optometrist or a health maintenance organization, except where the division is made in proportion to the services performed for the patient and the responsibility assumed by each.

2. Division of fees or any understanding or arrangement *which is designed or tends to impair, influence or affect the independent judgment or practice of the optometrist* with any person who is not an optometrist or a health maintenance organization, unless in accordance with NRS 636.374.

Sec. 45. NRS 636.302 is hereby amended to read as follows:

636.302 The following acts, among others, constitute unethical or unprofessional conduct:

1. ~~[Making a house to house canvass, either in person or by another person, for advertising, selling or soliciting the sale of eyeglasses, frames, lenses, mountings, or optometric examinations or services.~~

~~2.~~ Circulating or publishing, directly or indirectly, any false, fraudulent or misleading statement as to optometric materials or services, his or her method of practice or skill, or the method of practice or skill of any other licensee.

~~3.~~ *2.* Advertising in any manner that will tend to deceive, defraud or mislead the public.

~~4.~~ *3.* Advertising, directly or indirectly, free optometric examinations . ~~or services.~~

Sec. 46. NRS 636.305 is hereby amended to read as follows:

636.305 *1.* A complaint may be made against a licensee by:

~~1.~~ *(a)* An ~~agent~~ *employee* or ~~inspector employed by~~ *contractor of* the Board; *or*

~~2.~~ *(b)* Any ~~other~~ licensee ~~;~~ or

~~3. Any aggrieved~~ *other* person,

➥ ~~charging~~ *alleging* one or more ~~of the causes~~ *grounds* for disciplinary action ~~with such particularity as to enable the defendant licensee to prepare a defense.~~ *set forth in NRS 636.295.*

2. As soon as practicable after a complaint is filed with the Board, the Executive Director or his or her designee shall review the complaint. If the Executive Director determines that the complaint is not frivolous and alleges one or more of the grounds for disciplinary action set forth in NRS 636.295, the Board, through the Executive Director, shall cause the complaint to be investigated.

3. The Board shall retain each complaint received pursuant to this section for not less than 10 years, including, without limitation, any complaint which is not acted upon.

Sec. 47. NRS 636.310 is hereby amended to read as follows:

636.310 *1.* A complaint ~~must~~ *:*

(a) Must be made in writing ~~. The original complaint and two copies must be filed with the Executive Director. A complaint may~~ *and be signed and sworn to or affirmed by the person making it.*

(b) May not be filed anonymously ~~. If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.~~ *, except that the identity of the complainant must remain confidential upon request by the complainant and until the complainant waives that confidentiality.*

2. If the Executive Director or his or her designee determines that a complaint filed with the Board relates to any matter within the jurisdiction of another regulatory body in this title or chapter 437 of NRS, the Executive Director shall refer the complaint to the that regulatory body.

3. The provisions of subsection 2 do not prohibit the Executive Director or his or her designee from investigating a complaint which relates to any matter within the jurisdiction of the Board or from notifying the Board of that

matter for further consideration by the Board if deemed necessary by the Board after an investigation.

4. Any member, employee, contractor or officer of the Board is immune from any civil liability for any decision made or action taken in good faith and without malicious intent in carrying out the provisions of this section.

Sec. 48. (Deleted by amendment.)

Sec. 48.3. NRS 636.320 is hereby amended to read as follows:

636.320 ~~[The]~~ *Any disciplinary* hearing of a formal charge *relating to an alleged ground for disciplinary action set forth in NRS 636.295* must be conducted ~~[publicly by the Board. The licensee against whom the charge is filed must be accorded the right to appear in person and by legal counsel, and given adequate opportunity to confront the witnesses against him or her, to testify and introduce the testimony of witnesses in his or her behalf, and to submit argument and brief in person or by counsel.]~~ *in accordance with the provisions of chapters 233B, 622 and 622A of NRS.*

Sec. 48.6. NRS 636.325 is hereby amended to read as follows:

636.325 1. ~~[Upon conclusion of the hearing, or waiver thereof by the person against whom the charge is filed, the Board shall make and announce its decision.]~~ If the Board ~~[determines that the allegations included in the charge are true,]~~ *finds by a preponderance of the evidence that a person has engaged in one or more grounds for disciplinary action set forth in NRS 636.295,* it may take any one or more of the following actions:

(a) Publicly reprimand the licensee ~~[;]~~ *and impose any terms or conditions deemed necessary by the Board;*

(b) Place the licensee on probation for a specified or unspecified period ~~[;]~~ *and impose any conditions deemed necessary by the Board;*

(c) Suspend the ~~[licensee from practice for a specified or unspecified period;]~~ *license of the person for not more than 1 year and impose any terms or conditions deemed necessary by the Board;*

(d) Revoke the ~~[licensee's]~~ license ~~[; or]~~ *of the person and impose any terms or conditions for reinstatement of the license deemed necessary by the Board;*

(e) Impose an administrative fine pursuant to the provisions of NRS 636.420 ~~[.~~

~~➥ The Board may, in connection with a reprimand, probation or suspension, impose such other terms or conditions as it deems necessary.]~~ *;*

(f) Limit the person's practice of optometry;

(g) Suspend the enforcement of any penalty by placing the person on probation, which the Board may revoke if the person fails to comply with any condition of probation imposed by the Board;

(h) Require the person to submit to the supervision of or counseling or treatment by a person designated by the Board, and the person must be responsible for any expense incurred for providing those services;

(i) Impose and modify any conditions of probation for the protection of the public or the rehabilitation of the person;

(j) Require the person to pay for any costs of remediation or restitution; or

(k) Take any combination of the actions specified in paragraphs (a) to (j), inclusive.

2. ~~[If the Board determines that the allegations included in the charge are false or do not warrant disciplinary action, it shall dismiss the charge.~~

~~3.]~~ The Board shall not issue a private reprimand.

~~[4.]~~ *3.* An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 48.9. NRS 636.337 is hereby amended to read as follows:

636.337 1. Any disciplinary action taken by a hearing officer or panel pursuant to NRS 636.110 is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto.

2. A decision of the hearing officer or panel relating to the imposition of an administrative fine or penalty is a final decision in a contested case. ~~[Any party aggrieved by a decision of the officer or panel to revoke or suspend a license may appeal that decision to the Board.]~~

Sec. 48.95. NRS 636.339 is hereby amended to read as follows:

636.339 1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule ~~[II,]~~ III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule ~~[II,]~~ III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule ~~[II,]~~ III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 60 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

Sec. 49. NRS 636.350 is hereby amended to read as follows:

636.350 1. An optometrist shall not ~~[practice optometry]~~ *own all or any portion of an optometry practice* under an assumed or fictitious name unless the optometrist has been issued a certificate of registration by the Board to

practice optometry under ~~[an]~~ *the* assumed or fictitious name ~~[.]~~ *and at a specific location.*

2. An optometrist who applies for a certificate of registration to *own all or any portion of an optometry* practice ~~[optometry]~~ under an assumed or fictitious name must submit to the Board an application on a form provided by the Board. *The application must be accompanied by proof satisfactory to the Board that the assumed or fictitious name has been registered or otherwise approved by any appropriate governmental entity, including, without limitation, any incorporated city or unincorporated town in which the optometrist practices, if the registration or other approval is required by the governmental entity.*

3. Each optometrist who is issued a certificate of registration pursuant to this section shall:

(a) Comply with the provisions of chapter 602 of NRS; ~~[and]~~

(b) Display or cause to be displayed near the entrance of his or her business the full name of the optometrist and the words or letters that designate him or her as an optometrist ~~[.]~~ *; and*

(c) Display or cause to be displayed near the entrance of his or her business the full name of any optometrist who regularly provides optometric services at the business and the words or letters that designate him or her as an optometrist.

4. The Board shall adopt regulations that prescribe the requirements for the issuance of a certificate of registration to practice optometry under an assumed or fictitious name.

5. As used in this section, "assumed or fictitious name" means a name ~~[that is not the real]~~ *other than the* name of ~~[each person who owns an interest in a business.]~~ *the optometrist printed on his or her license to practice optometry.*

Sec. 50. NRS 636.355 is hereby amended to read as follows:

636.355 A licensee shall not ~~[be entitled to]~~ lend, sell, or otherwise ~~[dispose or]~~ permit the unauthorized use of his or her license or current renewal card.

Sec. 51. NRS 636.365 is hereby amended to read as follows:

636.365 The Board or the Executive Director may issue a duplicate license and renewal card *for each location at which a licensee practices optometry,* if ~~[a]~~ *the* licensee maintains more than one place of practice.

Sec. 52. NRS 636.370 is hereby amended to read as follows:

636.370 1. A person who has been issued an initial license to practice optometry in this State or who is re-establishing a practice in this State shall, before commencing the practice, notify the Executive Director, in writing, of the location or locations where the person intends to practice.

2. A licensee shall notify the Executive Director in writing before changing the location of his or her practice ~~[.]~~ *or establishing an additional location to practice optometry.*

Sec. 53. NRS 636.372 is hereby amended to read as follows:

636.372 1. ~~[An]~~ *Except as otherwise provided in subsection 4, an* optometrist may enter into an agreement with a person who is not licensed pursuant to the provisions of this chapter for the leasing of a building or a part thereof for use in his or her practice. The lease may contain a provision which requires that the rent must be based on a percentage of the revenue earned by the optometrist in his or her practice if the total amount of rent paid for the building or part thereof does not exceed its fair rental value, including any furniture, fixtures or equipment therein.

2. An optometrist who enters into such a lease with a physician may locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business.

3. The Board may adopt regulations prescribing the requirements for such leases. The regulations must ensure the quality of optometric care and the practice of optometry without restricting competition or the commercial practice of optometry.

4. An optometrist shall not enter into a lease pursuant to this section unless, during the term of the lease, the optometrist maintains exclusive access to, and control and ownership of, the medical records of each patient of the optometrist.

Sec. 53.5. NRS 636.373 is hereby amended to read as follows:

636.373 1. An optometrist may form an association or other business relationship with a physician to provide their respective services to patients.

2. If such an association or business relationship is formed, the optometrist may:

(a) Locate his or her office in the same place of business as the physician without a physical separation between the office and the place of business.

(b) Authorize the physician to have access to any medical records in the possession of the optometrist relating to a patient who is being treated by both the optometrist and the physician.

(c) Advertise and promote the services provided by the association or business consistent with the restrictions on advertising set forth in NRS 636.302.

3. *A person shall not directly or indirectly supervise an optometrist within the scope of his or her practice of optometry unless the person is licensed to practice optometry pursuant to this chapter.*

4. A person, including an officer, employee or agent of any commercial or mercantile establishment, shall not directly or indirectly control, dictate or influence the professional judgment of the practice of optometry by a licensed optometrist, unless the person is licensed to practice optometry pursuant to this chapter.

5. This section does not authorize an optometrist to employ or be employed by a physician.

Sec. 54. NRS 636.374 is hereby amended to read as follows:

636.374 An optometrist may, based upon the individual needs of a particular patient, collaborate with an ophthalmologist for the provision of care to the patient, for a fixed fee, regarding one or more surgical procedures if:

1. The collaborating parties prepare and maintain in their respective medical records regarding the patient, written documentation of each procedure and other service performed by each collaborating party which includes the date each procedure and other service is performed;

2. The fixed fee is divided between the collaborating parties in proportion to the services personally performed by each of them;

3. The collaborating parties agree that the collaborating optometrist will refer the patient back to the collaborating ophthalmologist or, if the collaborating ophthalmologist is not available, another ophthalmologist designated by the collaborating ophthalmologist to provide care to the patient if the medical needs of the patient necessitate the provision of care by an ophthalmologist; and

4. The collaborating parties provide to the patient and maintain in their respective medical records regarding the patient, a written document, signed by each of the collaborating parties and the patient, containing:

(a) The name, business address and telephone number of each of the collaborating parties;

(b) The amount of the fixed fee for the procedures and services;

(c) The proportion of that fee to be received by each collaborating party;

(d) A statement, signed by the patient and a witness who is not one of the collaborating parties, that the patient voluntarily, knowingly and willingly desires the performance of the postoperative care by the collaborating optometrist;

(e) A statement that the patient is entitled to return to the collaborating ophthalmologist for postoperative care at any time after the surgery; and

(f) A statement which:

(1) Indicates that the practice of optometry *is regulated by the Nevada State Board of Optometry* and *the practice of* ophthalmology ~~[are respectively]~~ *is* regulated by the ~~[Nevada State Board of Optometry and the]~~ Board of Medical Examiners ~~[,]~~ *or the State Board of Osteopathic Medicine, as applicable;* and

(2) Contains the address and telephone number of each of those Boards.

Sec. 55. NRS 636.375 is hereby amended to read as follows:

636.375 *1. Service of process made under this chapter must be made by one of the following methods:*

(a) Sending the process to be served to the person by certified mail at his or her last known address as indicated in the records of the Board; or

(b) Personal delivery of the document to be served upon the person.

2. Service of process made under this chapter shall be deemed complete when a true and correct copy of the document, properly addressed and stamped, is deposited in the United States mail pursuant to paragraph (a) of

subsection 1, or when personal delivery is completed pursuant to paragraph (b) of subsection 1.

3. Any notice *which is not* required to be ~~[given by the Board or the Executive Director to a licensee]~~ *served in accordance with subsection 1 or 2* may be transmitted by ~~[ordinary]~~ *:*

~~[first-class, certified or registered]~~

(a) First-class mail, postage prepaid, addressed to the licensee at the location listed by the ~~[Executive Director for that]~~ licensee ~~[.]~~ *on his or her most recent change of address form or application for the renewal of his or her license or the last known address as indicated in the records of the Board for any other person;*

(b) Electronic mail to the address for electronic mail most recently provided by the person to the Board; or

(c) Facsimile machine to the number most recently provided by the person to the Board.

Sec. 56. NRS 636.382 is hereby amended to read as follows:

636.382 ~~[1. No]~~ *Any* licensed optometrist may administer topical *diagnostic* ophthalmic ~~[pharmaceutical]~~ agents . ~~[unless the optometrist has received certification from the Board authorizing him or her to do so.~~

~~2. The Board shall adopt regulations prescribing the diagnostic uses to which the agents enumerated in subsection 3 may be put, the manner in which such agents may be used, and the qualifications and requirements for such certification which must include:~~

~~(a) A valid license to practice optometry in this State;~~

~~(b) Satisfactory completion of a curriculum approved by the Board, which must include general and ocular pharmacology, at an institution approved by the Board and accredited by a regional or professional accrediting organization and recognized or approved by the Council on Post-Secondary Accreditation, the Northwest Accreditation Association or the United States Department of Education; and~~

~~(c) Successful completion of an appropriate examination approved and administered by the Board.~~

~~3. The following topical ophthalmic pharmaceutical agents may be used for diagnostic purposes by an optometrist who has been authorized by the Board to do so:~~

~~(a) Mydriatics;~~

~~(b) Cycloplegics;~~

~~(c) Topical anesthetics; and~~

~~(d) Miotics.]~~

Sec. 57. NRS 636.387 is hereby amended to read as follows:

636.387 1. The form for any prescription which is ~~[issued for an ophthalmic lens by an optometrist in this State must contain lines or boxes in substantially the following form:~~

~~Approved for contact lenses..... _____~~

~~Not approved for contact lenses ..... _____~~

~~2. The prescribing optometrist shall mark or check one of the lines or boxes required by subsection 1 each time such a prescription is issued by the optometrist.~~

~~3. If the prescription is~~] for a contact lens [~~, the form~~] must set forth the expiration date of the prescription, the number of [~~refills~~] *contact lenses* approved for the patient and such other information as is necessary for the prescription to be filled properly. *A prescription for spectacle lenses must not be construed to be approved for or converted to a prescription for contact lenses unless contact lenses are expressly approved in writing on the prescription by the prescribing optometrist.*

[~~4.~~] *2.* The initial fitting of a contact lens must be performed by an ophthalmologist or optometrist licensed in this State.

[~~5.~~] *3.* As used in this section, "initial fitting" means measuring the health, integrity and refractive error of the eye to determine whether contact lenses [~~may be approved pursuant to subsection 1.~~] *are appropriate for the patient.*

Sec. 57.5. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. NRS 636.420 is hereby amended to read as follows:

636.420 [~~Any~~] *After providing notice and a hearing pursuant to chapter 622A of NRS, the Board may impose an administrative fine of not more than $5,000 for each violation against a* person licensed under this chapter who [~~violates any provision of this chapter or any regulation of the Board relating to the practice of optometry is liable to the Board for an administrative fine of not less than $100 or more than $5,000.~~] *engages in any conduct constituting grounds for disciplinary action set forth in NRS 636.295.*

Sec. 60. NRS 639.0125 is hereby amended to read as follows:

639.0125 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State;

2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;

3. An advanced practice registered nurse who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

4. A physician assistant who:

(a) Holds a license issued by the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

5. A physician assistant who:

(a) Holds a license issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~[therapeutic]~~ pharmaceutical agents within the scope of his or her certification.

Sec. 61. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his or her profession in this State and is registered pursuant to this chapter.

2. An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy authorizing him or her to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he or she possesses or administers sodium pentobarbital pursuant to his or her license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. A physician assistant who:

(a) Holds a license from the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~[therapeutic]~~ pharmaceutical agents within the scope of his or her certification.

Sec. 62. NRS 454.00958 is hereby amended to read as follows:

454.00958 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a valid license to practice his or her profession in this State.

2. A pharmacy, hospital or other institution licensed or registered to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice in this State.

3. When relating to the prescription of poisons, dangerous drugs and devices:

(a) An advanced practice registered nurse who holds a certificate from the State Board of Pharmacy permitting him or her so to prescribe; or

(b) A physician assistant who holds a license from the Board of Medical Examiners and a certificate from the State Board of Pharmacy permitting him or her so to prescribe.

4. An optometrist who is certified to prescribe and administer ~~[dangerous drugs]~~ *pharmaceutical agents* pursuant to NRS 636.288 when the optometrist prescribes or administers dangerous drugs which are within the scope of his or her certification.

Sec. 63. Section 6 of Assembly Bill No. 239 of this session is hereby amended to read as follows:

Sec. 6. NRS 636.338 is hereby amended to read as follows:

636.338 1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule ~~[II,]~~ III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule ~~[II,]~~ III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to NRS 453.162; and

(b) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule ~~[II,]~~ III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or

otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall :

(a) Adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule ~~[II,]~~ III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules ~~[II,]~~ III and IV.

(b) Develop and disseminate to each optometrist who is certified to prescribe and administer ~~[therapeutic]~~ pharmaceutical agents pursuant to NRS 636.288 or make available on the Internet website of the Board an explanation or a technical advisory bulletin to inform those optometrists of the requirements of this section and NRS 636.339, 639.23507 and 639.2391 to 639.23916, inclusive, and any regulations adopted pursuant thereto. The Board shall update the explanation or bulletin as necessary to include any revisions to those provisions of law or regulations. The explanation or bulletin must include, without limitation, an explanation of the requirements that apply to specific controlled substances or categories of controlled substances.

~~[Sec. 63.]~~ *Sec. 64.* Notwithstanding the amendatory provisions of:

1. Section 20 of this act, the schedule of fees established by the Nevada State Board of Optometry pursuant to NRS 636.143 remains in effect until the Board establishes a revised schedule of fees pursuant to NRS 636.143, as amended by section 20 of this act.

2. Section 27 of this act, a license to practice optometry executed pursuant to NRS 636.215 remains in effect for the period for which the license was issued, if the person to whom the license was issued remains eligible to hold the license during that period.

3. Section 36 of this act, any regulations adopted by the Nevada State Board of Optometry prescribing the requirements for certification to administer and prescribe a therapeutic pharmaceutical agent pursuant to

NRS 636.287 remain in effect until the Board amends the regulations in accordance with NRS 636.287, as amended by section 36 of this act.

4. Section 37 of this act, a certificate to administer or prescribe a therapeutic pharmaceutical agent issued in accordance with the provisions of NRS 636.288 remains in effect for the period for which the certificate was issued, if the person to whom the certificate was issued otherwise remains eligible to hold the certificate during that period.

5. Section 40 of this act, any regulations adopted by the Nevada State Board of Optometry which prescribe the requirements for the issuance of a certificate to treat persons diagnosed with glaucoma pursuant to NRS 636.2893 remain in effect until the Board adopts regulations in accordance with NRS 636.2893, as amended by section 41 of this act.

~~[Sec. 64.]~~ *Sec. 65.* NRS 636.024, 636.160, 636.175, 636.195, 636.200, 636.220, 636.315, 636.330, 636.335, 636.336, 636.341 and 636.385 are hereby repealed.

~~[Sec. 65.]~~ *Sec. 66.* This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

LEADLINES OF REPEALED SECTIONS

636.024 "Therapeutic pharmaceutical agent" defined.

636.160 Application for examination.

636.175 Equipment required for examination.

636.195 Request for reexamination.

636.200 Scope of reexamination.

636.220 Licenses: Issuance.

636.315 Procedure following filing of complaint; retention of complaints.

636.330 Application for rehearing.

636.335 Rehearing: Notice to licensee; conduct; decision.

636.336 Board to cooperate with other agencies investigating persons.

636.341 Practicing or offering to practice without license: Reporting requirements of Board.

636.385 Use of and payment for optometric services by administrative agencies and public schools.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 1051 makes one technical change to Assembly Bill No. 77. It adds a new section to the bill which amends section 6, subsection 6(b), of Assembly Bill No. 239 to remove the word "therapeutic" from the term "therapeutic pharmaceutical agents." The proposed changes conform with the proposed changes to such term in Assembly Bill No. 77.

Amendment adopted.

Bill read third time.

Remarks by Senator Dondero Loop.

Assembly Bill No. 77 makes various changes to provisions governing the practice of optometry and the Nevada State Board of Optometry and revises various circumstances under which a person is exempt from the chapter governing the practice of optometry. Specifically, this bill expands the acts that constitute the practice of optometry to include certain surgical procedures on or around the eye. The bill revises provisions governing the administering and prescribing of a pharmaceutical agent and controlled substance by an optometrist and authorizes an optometrist's assistant to perform certain activities. The bill sets forth the requirements for the issuance of a certificate to own or operate a mobile-optometry clinic. The bill makes various changes to the provisions governing the Nevada State Board of Optometry, including, but not limited to, requirements for duplicating, issuing, renewing or restoring licenses and certain registrations or certificates to treat persons with glaucoma; complaint and disciplinary actions, as well as certain penalties; fees charged by the Board and certain powers and duties of the Board.

Roll call on Assembly Bill No. 77:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Assembly Bill No. 77 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 128.

Bill read third time.

Remarks by Senator Spearman.

Assembly Bill No. 128 revises provisions governing vocational rehabilitation. This bill creates a tiered system for the maximum length of a vocational-rehabilitation program ranging from 9 to 24 months. A vocational-rehabilitation program may be extended by the insurer or by order of a hearing officer or appeals officer. The bill further eliminates the limits on the total length of a program and the prohibition on the appeal of the determination of an insurer to grant or deny an extension of a program or to authorize or deny a third program of vocational rehabilitation. This bill increases the minimum, lump-sum compensation from 40 percent to 55 percent of the maximum amount of vocational-rehabilitation maintenance due to the injured employee when the employee is paid compensation in a lump sum in lieu of the provision of vocational-rehabilitation services.

Roll call on Assembly Bill No. 128:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

EXCUSED—Washington.

Assembly Bill No. 128 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Parks moved that the Senate do not recede from its action on Assembly Bill No. 70, that a conference be requested, and that Madam President appoint a Conference Committee consisting of three members to meet with a like Committee of the Assembly.

Remarks by Senator Parks.

We see that there is a small, minor correction, which needs to be made.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam President appointed Senators Parks, Harris and Kieckhefer as a Conference Committee to meet with a like Committee of the Assembly for the further consideration of Assembly Bill No. 70.

Madam President appointed Senators Parks, Harris and Kieckhefer as a Conference Committee to meet with a like Committee of the Assembly for the further consideration of Senate Bill No. 463.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 254, 276, 295, 314, 321, 376, 497, 532, 536, 539, 541; Senate Resolution No. 8; Assembly Bills Nos. 15, 41, 50, 60, 62, 64, 66, 73, 76, 78, 112, 126, 129, 140, 151, 161, 163, 166, 174, 175, 205, 226, 232, 239, 242, 244, 252, 254, 261, 275, 282, 286, 288, 299, 310, 316, 336, 353, 361, 363, 365, 367, 376, 378, 397, 400, 403, 404, 417, 421, 427, 434, 439, 440, 457, 458, 462, 465, 485, 492; Assembly Joint Resolutions Nos. 1, 2.

Senator Cannizzaro moved that the Senate adjourn until Saturday, June 1, 2019, at 11:00 a.m.

Motion carried.

Senate adjourned at 11:43 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate