

SENATE BILL NO. 35—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to controlled substances.
(BDR 40-423)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to controlled substances; establishing the crimes of mid-level and high-level trafficking in illicitly manufactured fentanyl, any derivative of fentanyl and any mixture which contains fentanyl or any derivative of fentanyl; requiring, to the extent that money is available, the establishment of certain programs to provide certain offenders or prisoners who have a substance use disorder with medication-assisted treatment; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a person who knowingly or intentionally sells,
2 manufactures, delivers or brings into this State or is knowingly or intentionally in
3 actual or constructive possession of a schedule I controlled substance, other than
4 marijuana, a schedule II controlled substance or certain other controlled substances
5 is guilty of: (1) low-level trafficking if the quantity of the controlled substance is
6 100 grams or more but less than 400 grams; and (2) high-level trafficking if the
7 quantity of the controlled substance is 400 grams or more. A person who commits
8 the crime of: (1) low-level trafficking is guilty of a category B felony and subject to
9 certain prescribed penalties; and (2) high-level trafficking is guilty of a category A
10 felony and subject to certain prescribed penalties. (NRS 453.3385)

11 Existing regulations of the State Board of Pharmacy include fentanyl in the list
12 of controlled substances in schedule II and various derivatives of fentanyl in the list
13 of controlled substances in schedule I. (NAC 453.510, as amended by LCB File No.
14 R023-21, NAC 453.520) **Section 8** of this bill excludes illicitly manufactured
15 fentanyl, any derivative of fentanyl and any mixture which contains fentanyl or any
16 derivative of fentanyl from the controlled substances for which the provisions



17 governing the crimes of low-level trafficking and high-level trafficking apply.
18 **Section 1** of this bill instead establishes the crimes of mid-level trafficking and
19 high-level trafficking in illicitly manufactured fentanyl, any derivative of fentanyl
20 and any mixture which contains fentanyl or any derivative of fentanyl. Under
21 **section 1**, a person who knowingly or intentionally sells, manufactures, delivers or
22 brings into this State or is knowingly or intentionally in actual or constructive
23 possession of illicitly manufactured fentanyl, any derivative of fentanyl or any
24 mixture which contains fentanyl or any derivative of fentanyl is guilty of: (1) mid-
25 level trafficking if the quantity involved is 14 grams or more but less than 28
26 grams; and (2) high-level trafficking if the quantity involved is 28 grams or more.
27 Under **section 1**, a person who commits the crime of: (1) mid-level trafficking is
28 guilty of a category B felony and subject to certain prescribed penalties; and (2)
29 high-level trafficking is guilty of a category A felony and subject to certain
30 prescribed penalties.

31 **Sections 2, 5 and 6** of this bill provide that a person found guilty of mid-level
32 or high-level trafficking in illicitly manufactured fentanyl, any derivative of
33 fentanyl or any mixture which contains fentanyl or any derivative of fentanyl is
34 subject to the greater penalty for that crime if the acts constituting the crime could
35 subject the person to a lesser punishment under another statute.

36 **Sections 3, 4, 7, 9-12 and 13** of this bill add references to **section 1** so that the
37 crimes of mid-level and high-level trafficking in illicitly manufactured fentanyl,
38 any derivative of fentanyl or any mixture which contains fentanyl or any derivative
39 of fentanyl are treated the same as the crimes of low-level and high-level trafficking
40 involving schedule I controlled substances, other than marijuana, and schedule II
41 controlled substances for certain purposes.

42 Existing law requires the Director of the Department of Corrections to establish
43 one or more programs of treatment for offenders with substance use or co-occurring
44 disorders who have been sentenced to imprisonment in the state prison. (NRS
45 209.4236, 209.425) Existing law additionally provides that the treatment of a
46 prisoner in a local jail or detention facility who has a substance use disorder may
47 include medication-assisted treatment. (NRS 211.140) **Section 12.3** of this bill
48 requires the Director, to the extent that money is available, to establish a program to
49 provide for the treatment of offenders with a substance use disorder using
50 medication-assisted treatment. **Section 12.3** requires: (1) the program to provide
51 each eligible offender who participates in the program with appropriate medication-
52 assisted treatment for the period in which the offender is incarcerated; and (2) each
53 offender who the Director has determined has a substance use disorder for which a
54 medication-assisted treatment exists and who meets any reasonable conditions
55 imposed by the Director to be deemed eligible to participate in the program and
56 offered the opportunity to participate. **Section 12.3** prohibits the Director from
57 denying an offender the ability to participate in the program or terminating his or
58 her participation in the program for certain reasons. Finally, **section 12.3** provides
59 that an offender who participates in the program is not subject to discipline on the
60 basis that the results of a screening test administered to the offender indicated the
61 presence of a controlled substance. **Section 12.7** of this bill requires, to the extent
62 that money is available, a sheriff, chief of police or town marshal who is
63 responsible for a county, city or town jail or detention facility to establish a
64 program similar to that set forth in **section 12.3** to provide for the treatment of
65 prisoners with a substance use disorder using medication-assisted treatment.



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

1 **Section 1.** Chapter 453 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Except as otherwise authorized by the provisions of NRS*
4 *453.011 to 453.552, inclusive, a person who knowingly or*
5 *intentionally sells, manufactures, delivers or brings into this State*
6 *or who is knowingly or intentionally in actual or constructive*
7 *possession of illicitly manufactured fentanyl, any derivative of*
8 *fentanyl or any mixture which contains fentanyl or any derivative*
9 *of fentanyl, unless a greater penalty is provided pursuant to NRS*
10 *453.322, if the quantity involved:*

11 1. *Is 14 grams or more, but less than 28 grams, is guilty of*
12 *mid-level trafficking and shall be punished for a category B felony*
13 *by imprisonment in the state prison for a minimum term of not*
14 *less than 2 years and a maximum term of not more than 15 years*
15 *and by a fine of not more than \$100,000.*

16 2. *Is 28 grams or more, is guilty of high-level trafficking and*
17 *shall be punished for a category A felony by imprisonment in the*
18 *state prison:*

19 (a) *For life with the possibility of parole, with eligibility for*
20 *parole beginning when a minimum of 10 years has been served; or*

21 (b) *For a definite term of 25 years, with eligibility for parole*
22 *beginning when a minimum of 10 years has been served,*
23 *↪ and by a fine of not more than \$500,000.*

24 **Sec. 2.** NRS 453.322 is hereby amended to read as follows:

25 453.322 1. Except as authorized by the provisions of NRS
26 453.011 to 453.552, inclusive, it is unlawful for a person to
27 knowingly or intentionally:

28 (a) Manufacture or compound a controlled substance other than
29 marijuana.

30 (b) Possess, with the intent to manufacture or compound a
31 controlled substance other than marijuana, or sell, exchange, barter,
32 supply, prescribe, dispense or give away, with the intent that the
33 chemical be used to manufacture or compound a controlled
34 substance other than marijuana:

35 (1) Any chemical identified in subsection 5; or

36 (2) Any other chemical which is proven by expert testimony
37 to be commonly used in manufacturing or compounding a controlled
38 substance other than marijuana. The district attorney may present
39 expert testimony to provide a prima facie case that any chemical,
40 whether or not it is a chemical identified in subsection 5, is
41 commonly used in manufacturing or compounding such a controlled
42 substance.



1 ↪ The provisions of this paragraph do not apply to a person who,
2 without the intent to commit an unlawful act, possesses any
3 chemical at a laboratory that is licensed to store the chemical.

4 (c) Offer or attempt to do any act set forth in paragraph (a) or
5 (b).

6 2. Unless a greater penalty is provided in subsection 3 or NRS
7 453.3385, *or section 1 of this act*, a person who violates any
8 provision of subsection 1 is guilty of a category B felony and shall
9 be punished by imprisonment in the state prison for a minimum
10 term of not less than 3 years and a maximum term of not more than
11 15 years, and may be further punished by a fine of not more than
12 \$100,000.

13 3. If a person violates any provision of subsection 1 by
14 engaging in the manufacturing or compounding of a controlled
15 substance other than marijuana, or by attempting to do so, and the
16 violation causes a fire or explosion, the person is guilty of a
17 category B felony and shall be punished by imprisonment in the
18 state prison for a minimum term of not less than 3 years and a
19 maximum term of not more than 20 years, and may be further
20 punished by a fine of not more than \$100,000.

21 4. The court shall not grant probation to a person convicted
22 pursuant to this section.

23 5. The following chemicals are identified for the purposes of
24 subsection 1:

- 25 (a) Acetic anhydride.
- 26 (b) Acetone.
- 27 (c) N-Acetylanthranilic acid, its esters and its salts.
- 28 (d) Anthranilic acid, its esters and its salts.
- 29 (e) Benzaldehyde, its salts, isomers and salts of isomers.
- 30 (f) Benzyl chloride.
- 31 (g) Benzyl cyanide.
- 32 (h) 1,4-Butanediol.
- 33 (i) 2-Butanone (or methyl ethyl ketone or MEK).
- 34 (j) Ephedrine, its salts, isomers and salts of isomers.
- 35 (k) Ergonovine and its salts.
- 36 (l) Ergotamine and its salts.
- 37 (m) Ethylamine, its salts, isomers and salts of isomers.
- 38 (n) Ethyl ether.
- 39 (o) Gamma butyrolactone.
- 40 (p) Hydriodic acid, its salts, isomers and salts of isomers.
- 41 (q) Hydrochloric gas.
- 42 (r) Iodine.
- 43 (s) Isosafrole, its salts, isomers and salts of isomers.
- 44 (t) Lithium metal.
- 45 (u) Methylamine, its salts, isomers and salts of isomers.



- 1 (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- 2 (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- 3 (x) Methyl isobutyl ketone (MIBK).
- 4 (y) N-Methylpseudoephedrine, its salts, isomers and salts of
- 5 isomers.
- 6 (z) Nitroethane, its salts, isomers and salts of isomers.
- 7 (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- 8 (bb) Phenylacetic acid, its esters and its salts.
- 9 (cc) Phenylpropanolamine, its salts, isomers and salts of
- 10 isomers.
- 11 (dd) Piperidine and its salts.
- 12 (ee) Piperonal, its salts, isomers and salts of isomers.
- 13 (ff) Potassium permanganate.
- 14 (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- 15 (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- 16 (ii) Red phosphorous.
- 17 (jj) Safrole, its salts, isomers and salts of isomers.
- 18 (kk) Sodium metal.
- 19 (ll) Sulfuric acid.
- 20 (mm) Toluene.

21 **Sec. 3.** NRS 453.333 is hereby amended to read as follows:

22 453.333 If the death of a person is proximately caused by a
23 controlled substance which was sold, given, traded or otherwise
24 made available to him or her by another person in violation of this
25 chapter, the person who sold, gave or traded or otherwise made the
26 substance available to him or her is guilty of murder. If convicted of
27 murder in the second degree, the person is guilty of a category A
28 felony and shall be punished as provided in subsection 5 of NRS
29 200.030. If convicted of murder in the first degree, the person is
30 guilty of a category A felony and shall be punished as provided in
31 subsection 4 of NRS 200.030, except that the punishment of death
32 may be imposed only if the requirements of paragraph (a) of
33 subsection 4 of that section have been met and if the defendant is or
34 has previously been convicted of violating NRS 453.3385 or
35 453.339 *or section 1 of this act* or a law of any other jurisdiction
36 which prohibits the same conduct.

37 **Sec. 4.** NRS 453.3353 is hereby amended to read as follows:

38 453.3353 1. Unless a greater penalty is provided by law, and
39 except as otherwise provided in this section and NRS 193.169, if:

40 (a) A person violates NRS 453.322 or 453.3385, *or section 1 of*
41 *this act*, and the violation involves the manufacturing or
42 compounding of any controlled substance other than marijuana; and

43 (b) During the discovery or cleanup of the premises at, on or in
44 which the controlled substance was manufactured or compounded,
45 another person suffers substantial bodily harm other than death as



1 the proximate result of the manufacturing or compounding of the
2 controlled substance,
3 ↪ the person who committed the offense shall be punished by
4 imprisonment in the state prison for a term equal to and in addition
5 to the term of imprisonment prescribed by statute for the offense.
6 The sentence prescribed by this subsection runs consecutively with
7 the sentence prescribed by statute for the offense.

8 2. Unless a greater penalty is provided by law, and except as
9 otherwise provided in NRS 193.169, if:

10 (a) A person violates NRS 453.322 or 453.3385, *or section 1 of*
11 *this act*, and the violation involves the manufacturing or
12 compounding of any controlled substance other than marijuana; and

13 (b) During the discovery or cleanup of the premises at, on or in
14 which the controlled substance was manufactured or compounded,
15 another person suffers death as the proximate result of the
16 manufacturing or compounding of the controlled substance,

17 ↪ the offense shall be deemed a category A felony and the person
18 who committed the offense shall be punished by imprisonment in
19 the state prison:

20 (1) For life without the possibility of parole;

21 (2) For life with the possibility of parole, with eligibility for
22 parole beginning when a minimum of 20 years has been served; or

23 (3) For a definite term of 50 years, with eligibility for parole
24 beginning when a minimum of 20 years has been served.

25 3. Subsection 1 does not create a separate offense but provides
26 an additional penalty for the primary offense, the imposition of
27 which is contingent upon the finding of the prescribed fact.
28 Subsection 2 does not create a separate offense but provides an
29 alternative penalty for the primary offense, the imposition of which
30 is contingent upon the finding of the prescribed fact.

31 4. As used in this section:

32 (a) "Marijuana" does not include concentrated cannabis.

33 (b) "Premises" means:

34 (1) Any temporary or permanent structure, including, without
35 limitation, any building, house, room, apartment, tenement, shed,
36 carport, garage, shop, warehouse, store, mill, barn, stable, outhouse
37 or tent; or

38 (2) Any conveyance, including, without limitation, any
39 vessel, boat, vehicle, airplane, glider, house trailer, travel trailer,
40 motor home or railroad car,

41 ↪ whether located aboveground or underground and whether
42 inhabited or not.

43 **Sec. 5.** NRS 453.336 is hereby amended to read as follows:

44 453.336 1. Except as otherwise provided in subsection 6, a
45 person shall not knowingly or intentionally possess a controlled



1 substance, unless the substance was obtained directly from, or
2 pursuant to, a prescription or order of a physician, physician
3 assistant licensed pursuant to chapter 630 or 633 of NRS, dentist,
4 podiatric physician, optometrist, advanced practice registered nurse
5 or veterinarian while acting in the course of his or her professional
6 practice, or except as otherwise authorized by the provisions of NRS
7 453.005 to 453.552, inclusive.

8 2. Except as otherwise provided in subsections 3, 4 and 5 and
9 in NRS 453.3363, and unless a greater penalty is provided in NRS
10 212.160, 453.3385 or 453.339, *or section 1 of this act*, a person who
11 violates this section:

12 (a) For a first or second offense, if the controlled substance is
13 listed in schedule I or II and the quantity possessed is less than 14
14 grams, or if the controlled substance is listed in schedule III, IV or V
15 and the quantity possessed is less than 28 grams, is guilty of
16 possession of a controlled substance and shall be punished for a
17 category E felony as provided in NRS 193.130. In accordance with
18 NRS 176.211, the court shall defer judgment upon the consent of the
19 person.

20 (b) For a third or subsequent offense, if the controlled substance
21 is listed in schedule I or II, and the quantity possessed is less than 14
22 grams, or if the controlled substance is listed in schedule III, IV or V
23 and the quantity possessed is less than 28 grams, or if the offender
24 has previously been convicted two or more times in the aggregate of
25 any violation of the law of the United States or of any state, territory
26 or district relating to a controlled substance, is guilty of possession
27 of a controlled substance and shall be punished for a category D
28 felony as provided in NRS 193.130, and may be further punished by
29 a fine of not more than \$20,000.

30 (c) If the controlled substance is listed in schedule I or II and the
31 quantity possessed is 14 grams or more, but less than 28 grams, or if
32 the controlled substance is listed in schedule III, IV or V and the
33 quantity possessed is 28 grams or more, but less than 200 grams, is
34 guilty of low-level possession of a controlled substance and shall be
35 punished for a category C felony as provided in NRS 193.130.

36 (d) If the controlled substance is listed in schedule I or II and the
37 quantity possessed is 28 grams or more, but less than 42 grams, or if
38 the controlled substance is listed in schedule III, IV or V and the
39 quantity possessed is 200 grams or more, is guilty of mid-level
40 possession of a controlled substance and shall be punished for a
41 category B felony by imprisonment in the state prison for a
42 minimum term of not less than 1 year and a maximum term of not
43 more than 10 years and by a fine of not more than \$50,000.

44 (e) If the controlled substance is listed in schedule I or II and the
45 quantity possessed is 42 grams or more, but less than 100 grams, is



1 guilty of high-level possession of a controlled substance and shall be
2 punished for a category B felony by imprisonment in the state prison
3 for a minimum term of not less than 2 years and a maximum term of
4 not more than 15 years and by a fine of not more than \$50,000.

5 3. Unless a greater penalty is provided in NRS 212.160,
6 453.337 or 453.3385, a person who is convicted of the possession of
7 flunitrazepam or gamma-hydroxybutyrate, or any substance for
8 which flunitrazepam or gamma-hydroxybutyrate is an immediate
9 precursor, is guilty of a category B felony and shall be punished by
10 imprisonment in the state prison for a minimum term of not less
11 than 1 year and a maximum term of not more than 6 years.

12 4. Unless a greater penalty is provided pursuant to NRS
13 212.160, a person who is convicted of the possession of 1 ounce or
14 less of marijuana is guilty of a misdemeanor and shall be punished
15 by:

16 (a) Performing not more than 24 hours of community service;

17 (b) Attending the live meeting described in paragraph (a) of
18 subsection 2 of NRS 484C.530 and complying with any other
19 requirements set forth in that section; or

20 (c) Being required to undergo an evaluation in accordance with
21 subsection 1 of NRS 484C.350,

22 ↪ or any combination thereof.

23 5. Unless a greater penalty is provided pursuant to NRS
24 212.160, a person who is convicted of the possession of more than 1
25 ounce, but less than 50 pounds, of marijuana or more than one-
26 eighth of an ounce, but less than one pound, of concentrated
27 cannabis is guilty of a category E felony and shall be punished as
28 provided in NRS 193.130.

29 6. It is not a violation of this section if a person possesses a
30 trace amount of a controlled substance and that trace amount is in or
31 on a hypodermic device obtained from a sterile hypodermic device
32 program pursuant to NRS 439.985 to 439.994, inclusive.

33 7. The court may grant probation to or suspend the sentence of
34 a person convicted of violating this section.

35 8. If a person fulfills the terms and conditions imposed for a
36 violation of subsection 4, the court shall, without a hearing, order
37 sealed all documents, papers and exhibits in that person's record,
38 minute book entries and entries on dockets, and other documents
39 relating to the case in the custody of such other agencies and
40 officers as are named in the court's order. The court shall cause a
41 copy of the order to be sent to each agency or officer named in the
42 order. Each such agency or officer shall notify the court in writing
43 of its compliance with the order.

44 9. As used in this section:



1 (a) "Controlled substance" includes flunitrazepam, gamma-
2 hydroxybutyrate and each substance for which flunitrazepam or
3 gamma-hydroxybutyrate is an immediate precursor.

4 (b) "Marijuana" does not include concentrated cannabis.

5 (c) "Sterile hypodermic device program" has the meaning
6 ascribed to it in NRS 439.986.

7 **Sec. 6.** NRS 453.337 is hereby amended to read as follows:

8 453.337 1. Except as otherwise authorized by the provisions
9 of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to
10 possess for the purpose of sale flunitrazepam, gamma-
11 hydroxybutyrate, any substance for which flunitrazepam or gamma-
12 hydroxybutyrate is an immediate precursor or any controlled
13 substance classified in schedule I or II.

14 2. Unless a greater penalty is provided in NRS 453.3385 or
15 453.339, *or section 1 of this act*, a person who violates this section
16 shall be punished:

17 (a) For the first offense, for a category D felony as provided in
18 NRS 193.130.

19 (b) For a second offense, or if, in the case of a first conviction of
20 violating this section, the offender has previously been convicted of
21 a felony under the Uniform Controlled Substances Act or of an
22 offense under the laws of the United States or any state, territory or
23 district which, if committed in this State, would amount to a felony
24 under the Uniform Controlled Substances Act, for a category C
25 felony as provided in NRS 193.130.

26 (c) For a third or subsequent offense, or if the offender has
27 previously been convicted two or more times of a felony under the
28 Uniform Controlled Substances Act or of any offense under the laws
29 of the United States or any state, territory or district which, if
30 committed in this State, would amount to a felony under the
31 Uniform Controlled Substances Act, for a category B felony by
32 imprisonment in the state prison for a minimum term of not less
33 than 3 years and a maximum term of not more than 15 years, and
34 may be further punished by a fine of not more than \$20,000 for each
35 offense.

36 3. Except as otherwise provided in this subsection, unless
37 mitigating circumstances exist that warrant the granting of
38 probation, the court shall not grant probation to or suspend the
39 sentence of a person convicted of violating this section and
40 punishable pursuant to paragraph (b) or (c) of subsection 2. The
41 court shall not grant probation to or suspend the sentence of a
42 person convicted of violating this section, even if mitigating
43 circumstances exist that would otherwise warrant the granting of
44 probation, if the person violated this section by possessing
45 flunitrazepam, gamma-hydroxybutyrate or any substance for which



1 flunitrazepam or gamma-hydroxybutyrate is an immediate
2 precursor.

3 **Sec. 7.** NRS 453.3383 is hereby amended to read as follows:
4 453.3383 For the purposes of NRS 453.3385 and 453.339, *and*
5 *section 1 of this act*, the weight of the controlled substance as
6 represented by the person selling or delivering it is determinative if
7 the weight as represented is greater than the actual weight of the
8 controlled substance.

9 **Sec. 8.** NRS 453.3385 is hereby amended to read as follows:
10 453.3385 ~~[(1)]~~ Except *as otherwise provided in NRS 453.339*
11 *and section 1 of this act and except* as otherwise authorized by the
12 provisions of NRS 453.011 to 453.552, inclusive, a person who
13 knowingly or intentionally sells, manufactures, delivers or brings
14 into this State or who is knowingly or intentionally in actual or
15 constructive possession of flunitrazepam, gamma-hydroxybutyrate,
16 any substance for which flunitrazepam or gamma-hydroxybutyrate
17 is an immediate precursor or any controlled substance which is
18 listed in schedule I or II, ~~[except marijuana,]~~ or any mixture which
19 contains any such controlled substance, unless a greater penalty is
20 provided pursuant to NRS 453.322, if the quantity involved:

21 ~~[(a)]~~ 1. Is 100 grams or more, but less than 400 grams, is
22 guilty of low-level trafficking and shall be punished for a category B
23 felony by imprisonment in the state prison for a minimum term of
24 not less than 2 years and a maximum term of not more than 20 years
25 and by a fine of not more than \$100,000.

26 ~~[(b)]~~ 2. Is 400 grams or more, is guilty of high-level
27 trafficking and shall be punished for a category A felony by
28 imprisonment in the state prison:

29 ~~[(1)]~~ (a) For life with the possibility of parole, with
30 eligibility for parole beginning when a minimum of 10 years has
31 been served; or

32 ~~[(2)]~~ (b) For a definite term of 25 years, with eligibility for
33 parole beginning when a minimum of 10 years has been served,
34 and by a fine of not more than \$500,000.

35 ~~[(2) As used in this section, "marijuana" does not include~~
36 ~~concentrated cannabis.]~~

37 **Sec. 9.** NRS 453.3405 is hereby amended to read as follows:
38 453.3405 1. Except as otherwise provided in subsection 2,
39 the adjudication of guilt and imposition of sentence of a person
40 found guilty of trafficking in a controlled substance in violation of
41 NRS 453.3385 or 453.339 *or section 1 of this act* must not be
42 suspended and the person is not eligible for parole until the person
43 has actually served the mandatory minimum term of imprisonment
44 prescribed by the section under which the person was convicted.



1 2. The court, upon an appropriate motion, may reduce or
2 suspend the sentence of any person convicted of violating any of the
3 provisions of NRS 453.3385 or 453.339 *or section 1 of this act* if
4 the court finds that the convicted person rendered substantial
5 assistance in the investigation or prosecution of any offense. The
6 arresting agency must be given an opportunity to be heard before the
7 motion is granted. Upon good cause shown, the motion may be
8 heard in camera.

9 3. Any appropriate reduction or suspension of a sentence
10 pursuant to subsection 2 must be determined by the court, for
11 reasons stated by the court that may include, without limitation,
12 consideration of the following:

13 (a) The court's evaluation of the significance and usefulness of
14 the convicted person's assistance, taking into consideration the
15 prosecuting attorney's evaluation of the assistance rendered;

16 (b) The truthfulness, completeness and reliability of any
17 information or testimony provided by the convicted person;

18 (c) The nature and extent of the convicted person's assistance;

19 (d) Any injury suffered or any danger or risk of injury to the
20 convicted person or his or her family resulting from his or her
21 assistance; and

22 (e) The timeliness of the convicted person's assistance.

23 **Sec. 10.** NRS 453C.150 is hereby amended to read as follows:

24 453C.150 1. Notwithstanding any other provision of law, a
25 person who, in good faith, seeks medical assistance for a person
26 who is experiencing a drug or alcohol overdose or other medical
27 emergency or who seeks such assistance for himself or herself, or
28 who is the subject of a good faith request for such assistance may
29 not be arrested, charged, prosecuted or convicted, or have his or her
30 property subjected to forfeiture, or be otherwise penalized for
31 violating:

32 (a) Except as otherwise provided in subsection 4, a provision of
33 chapter 453 of NRS relating to:

34 (1) Drug paraphernalia, including, without limitation, NRS
35 453.554 to 453.566, inclusive;

36 (2) Possession, unless it is for the purpose of sale or violates
37 the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 or
38 453.3405 **[H]** *or section 1 of this act*; or

39 (3) Use of a controlled substance, including, without
40 limitation, NRS 453.336;

41 (b) A local ordinance as described in NRS 453.3361 that
42 establishes an offense that is similar to an offense set forth in
43 NRS 453.336;

44 (c) A restraining order; or

45 (d) A condition of the person's parole or probation,



1 ↪ if the evidence to support the arrest, charge, prosecution,
2 conviction, seizure or penalty was obtained as a result of the person
3 seeking medical assistance.

4 2. A court, before sentencing a person who has been convicted
5 of a violation of chapter 453 of NRS for which immunity is not
6 provided by this section, shall consider in mitigation any evidence
7 or information that the defendant, in good faith, sought medical
8 assistance for a person who was experiencing a drug or alcohol
9 overdose or other life-threatening emergency in connection with the
10 events that constituted the violation.

11 3. For the purposes of this section, a person seeks medical
12 assistance if the person:

13 (a) Reports a drug or alcohol overdose or other medical
14 emergency to a member of a law enforcement agency, a 911
15 emergency service, a poison control center, a medical facility or a
16 provider of emergency medical services;

17 (b) Assists another person making such a report;

18 (c) Provides care to a person who is experiencing a drug or
19 alcohol overdose or other medical emergency while awaiting the
20 arrival of medical assistance; or

21 (d) Delivers a person who is experiencing a drug or alcohol
22 overdose or other medical emergency to a medical facility and
23 notifies the appropriate authorities.

24 4. The provisions of this section do not prohibit any
25 governmental entity from taking any actions required or authorized
26 by chapter 432B of NRS relating to the abuse or neglect of a child.

27 5. As used in this section, "drug or alcohol overdose" means a
28 condition, including, without limitation, extreme physical illness, a
29 decreased level of consciousness, respiratory depression, coma,
30 mania or death which is caused by the consumption or use of a
31 controlled substance or alcohol, or another substance with which a
32 controlled substance or alcohol was combined, or that an ordinary
33 layperson would reasonably believe to be a drug or alcohol overdose
34 that requires medical assistance.

35 **Sec. 11.** NRS 179A.075 is hereby amended to read as follows:

36 179A.075 1. The Central Repository for Nevada Records of
37 Criminal History is hereby created within the Records,
38 Communications and Compliance Division of the Department.

39 2. Each agency of criminal justice and any other agency
40 dealing with crime shall:

41 (a) Collect and maintain records, reports and compilations of
42 statistical data required by the Department; and

43 (b) Submit the information collected to the Central Repository:

44 (1) In the manner approved by the Director of the
45 Department; and



1 (2) In accordance with the policies, procedures and
2 definitions of the Uniform Crime Reporting Program of the Federal
3 Bureau of Investigation.

4 3. Each agency of criminal justice shall submit the information
5 relating to records of criminal history that it creates, issues or
6 collects, and any information in its possession relating to the DNA
7 profile of a person from whom a biological specimen is obtained
8 pursuant to NRS 176.09123 or 176.0913, to the Division. The
9 information must be submitted to the Division:

10 (a) Through an electronic network;

11 (b) On a medium of magnetic storage; or

12 (c) In the manner prescribed by the Director of the Department,
13 ↪ within 60 days after the date of the disposition of the case. If an
14 agency has submitted a record regarding the arrest of a person who
15 is later determined by the agency not to be the person who
16 committed the particular crime, the agency shall, immediately upon
17 making that determination, so notify the Division. The Division
18 shall delete all references in the Central Repository relating to that
19 particular arrest.

20 4. Each state and local law enforcement agency shall submit
21 Uniform Crime Reports to the Central Repository:

22 (a) In the manner prescribed by the Director of the Department;

23 (b) In accordance with the policies, procedures and definitions
24 of the Uniform Crime Reporting Program of the Federal Bureau of
25 Investigation; and

26 (c) Within the time prescribed by the Director of the
27 Department.

28 5. The Division shall, in the manner prescribed by the Director
29 of the Department:

30 (a) Collect, maintain and arrange all information submitted to it
31 relating to:

32 (1) Records of criminal history; and

33 (2) The DNA profile of a person from whom a biological
34 specimen is obtained pursuant to NRS 176.09123 or 176.0913.

35 (b) When practicable, use a record of the personal identifying
36 information of a subject as the basis for any records maintained
37 regarding him or her.

38 (c) Upon request, provide, in paper or electronic form, the
39 information that is contained in the Central Repository to the
40 Committee on Domestic Violence appointed pursuant to NRS
41 228.470 when, pursuant to NRS 228.495, the Committee is
42 reviewing the death of the victim of a crime that constitutes
43 domestic violence pursuant to NRS 33.018.

44 6. The Division may:



1 (a) Disseminate any information which is contained in the
2 Central Repository to any other agency of criminal justice;

3 (b) Enter into cooperative agreements with repositories of the
4 United States and other states to facilitate exchanges of information
5 that may be disseminated pursuant to paragraph (a); and

6 (c) Request of and receive from the Federal Bureau of
7 Investigation information on the background and personal history of
8 any person whose record of fingerprints or other biometric identifier
9 the Central Repository submits to the Federal Bureau of
10 Investigation and:

11 (1) Who has applied to any agency of the State of Nevada or
12 any political subdivision thereof for a license which it has the power
13 to grant or deny;

14 (2) With whom any agency of the State of Nevada or any
15 political subdivision thereof intends to enter into a relationship of
16 employment or a contract for personal services;

17 (3) Who has applied to any agency of the State of Nevada or
18 any political subdivision thereof to attend an academy for training
19 peace officers approved by the Peace Officers' Standards and
20 Training Commission;

21 (4) For whom such information is required or authorized to
22 be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031,
23 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or

24 (5) About whom any agency of the State of Nevada or any
25 political subdivision thereof is authorized by law to have accurate
26 personal information for the protection of the agency or the persons
27 within its jurisdiction.

28 7. To request and receive information from the Federal Bureau
29 of Investigation concerning a person pursuant to subsection 6, the
30 Central Repository must receive:

31 (a) The person's complete set of fingerprints for the purposes of:

32 (1) Booking the person into a city or county jail or detention
33 facility;

34 (2) Employment;

35 (3) Contractual services; or

36 (4) Services related to occupational licensing;

37 (b) One or more of the person's fingerprints for the purposes of
38 mobile identification by an agency of criminal justice; or

39 (c) Any other biometric identifier of the person as it may require
40 for the purposes of:

41 (1) Arrest; or

42 (2) Criminal investigation,

43 ↪ from the agency of criminal justice or agency of the State of
44 Nevada or any political subdivision thereof and submit the received
45 data to the Federal Bureau of Investigation for its report.



1 8. The Central Repository shall:

2 (a) Collect and maintain records, reports and compilations of
3 statistical data submitted by any agency pursuant to subsection 2.

4 (b) Tabulate and analyze all records, reports and compilations of
5 statistical data received pursuant to this section.

6 (c) Disseminate to federal agencies engaged in the collection of
7 statistical data relating to crime information which is contained in
8 the Central Repository.

9 (d) Investigate the criminal history of any person who:

10 (1) Has applied to the Superintendent of Public Instruction
11 for the issuance or renewal of a license;

12 (2) Has applied to a county school district, charter school or
13 private school for employment or to serve as a volunteer; or

14 (3) Is employed by or volunteers for a county school district,
15 charter school or private school,

16 ↪ and immediately notify the superintendent of each county school
17 district, the governing body of each charter school and the
18 Superintendent of Public Instruction, or the administrator of each
19 private school, as appropriate, if the investigation of the Central
20 Repository indicates that the person has been convicted of a
21 violation of NRS 200.508, 201.230, 453.3385 or 453.339, *or section*
22 *1 of this act*, or convicted of a felony or any offense involving moral
23 turpitude.

24 (e) Upon discovery, immediately notify the superintendent of
25 each county school district, the governing body of each charter
26 school or the administrator of each private school, as appropriate, by
27 providing the superintendent, governing body or administrator with
28 a list of all persons:

29 (1) Investigated pursuant to paragraph (d); or

30 (2) Employed by or volunteering for a county school district,
31 charter school or private school whose fingerprints were sent
32 previously to the Central Repository for investigation,

33 ↪ who the Central Repository's records indicate have been
34 convicted of a violation of NRS 200.508, 201.230, 453.3385 or
35 453.339, *or section 1 of this act*, or convicted of a felony or any
36 offense involving moral turpitude since the Central Repository's
37 initial investigation. The superintendent of each county school
38 district, the governing body of a charter school or the administrator
39 of each private school, as applicable, shall determine whether
40 further investigation or action by the district, charter school or
41 private school, as applicable, is appropriate.

42 (f) Investigate the criminal history of each person who submits
43 one or more fingerprints or other biometric identifier or has such
44 data submitted pursuant to NRS 62B.270, 62G.223, 62G.353,



1 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or
2 449.4329.

3 (g) Provide an electronic means to access on the Central
4 Repository's Internet website statistical data relating to crime.

5 (h) Provide an electronic means to access on the Central
6 Repository's Internet website statistical data about domestic
7 violence in this State.

8 (i) Identify and review the collection and processing of
9 statistical data relating to criminal justice by any agency identified
10 in subsection 2 and make recommendations for any necessary
11 changes in the manner of collecting and processing statistical data
12 by any such agency.

13 (j) Adopt regulations governing biometric identifiers and the
14 information and data derived from biometric identifiers, including,
15 without limitation:

16 (1) Their collection, use, safeguarding, handling, retention,
17 storage, dissemination and destruction; and

18 (2) The methods by which a person may request the removal
19 of his or her biometric identifiers from the Central Repository and
20 any other agency where his or her biometric identifiers have been
21 stored.

22 9. The Central Repository may:

23 (a) In the manner prescribed by the Director of the Department,
24 disseminate compilations of statistical data and publish statistical
25 reports relating to crime.

26 (b) Charge a reasonable fee for any publication or special report
27 it distributes relating to data collected pursuant to this section. The
28 Central Repository may not collect such a fee from an agency of
29 criminal justice or any other agency dealing with crime which is
30 required to submit information pursuant to subsection 2. All money
31 collected pursuant to this paragraph must be used to pay for the cost
32 of operating the Central Repository.

33 (c) In the manner prescribed by the Director of the Department,
34 use electronic means to receive and disseminate information
35 contained in the Central Repository that it is authorized to
36 disseminate pursuant to the provisions of this chapter.

37 10. As used in this section:

38 (a) "Mobile identification" means the collection, storage,
39 transmission, reception, search, access or processing of a biometric
40 identifier using a handheld device.

41 (b) "Personal identifying information" means any information
42 designed, commonly used or capable of being used, alone or in
43 conjunction with any other information, to identify a person,
44 including, without limitation:



1 (1) The name, driver's license number, social security
2 number, date of birth and photograph or computer-generated image
3 of a person; and

4 (2) A biometric identifier of a person.

5 (c) "Private school" has the meaning ascribed to it in
6 NRS 394.103.

7 **Sec. 12.** NRS 207.360 is hereby amended to read as follows:

8 207.360 "Crime related to racketeering" means the commission
9 of, attempt to commit or conspiracy to commit any of the following
10 crimes:

- 11 1. Murder;
- 12 2. Manslaughter, except vehicular manslaughter as described in
13 NRS 484B.657;
- 14 3. Mayhem;
- 15 4. Battery which is punished as a felony;
- 16 5. Kidnapping;
- 17 6. Sexual assault;
- 18 7. Arson;
- 19 8. Robbery;
- 20 9. Taking property from another under circumstances not
21 amounting to robbery;
- 22 10. Extortion;
- 23 11. Statutory sexual seduction;
- 24 12. Extortionate collection of debt in violation of
25 NRS 205.322;
- 26 13. Forgery, including, without limitation, forgery of a credit
27 card or debit card in violation of NRS 205.740;
- 28 14. Obtaining and using personal identifying information of
29 another person in violation of NRS 205.463;
- 30 15. Establishing or possessing a financial forgery laboratory in
31 violation of NRS 205.46513;
- 32 16. Any violation of NRS 199.280 which is punished as a
33 felony;
- 34 17. Burglary;
- 35 18. Grand larceny;
- 36 19. Bribery or asking for or receiving a bribe in violation of
37 chapter 197 or 199 of NRS which is punished as a felony;
- 38 20. Battery with intent to commit a crime in violation of
39 NRS 200.400;
- 40 21. Assault with a deadly weapon;
- 41 22. Any violation of NRS 453.232, 453.316 to 453.339,
42 inclusive, *and section 1 of this act*, or NRS 453.375 to 453.401,
43 inclusive;
- 44 23. Receiving or transferring a stolen vehicle;



1 24. Any violation of NRS 202.260, 202.275 or 202.350 which
2 is punished as a felony;

3 25. Any violation of subsection 2 or 3 of NRS 463.360 or
4 chapter 465 of NRS;

5 26. Receiving, possessing or withholding stolen goods valued
6 at \$650 or more;

7 27. Embezzlement of money or property valued at \$650 or
8 more;

9 28. Obtaining possession of money or property valued at \$650
10 or more, or obtaining a signature by means of false pretenses;

11 29. Perjury or subornation of perjury;

12 30. Offering false evidence;

13 31. Any violation of NRS 201.300, 201.320, 201.360 or
14 201.395;

15 32. Any violation of NRS 90.570, 91.230 or 686A.290, or
16 insurance fraud pursuant to NRS 686A.291;

17 33. Any violation of NRS 205.506, 205.920 or 205.930;

18 34. Any violation of NRS 202.445 or 202.446;

19 35. Any violation of NRS 205.377;

20 36. Involuntary servitude in violation of any provision of NRS
21 200.463 or 200.464 or a violation of any provision of NRS 200.465;
22 or

23 37. Trafficking in persons in violation of any provision of NRS
24 200.467 or 200.468.

25 **Sec. 12.3.** Chapter 209 of NRS is hereby amended by adding
26 thereto a new section to read as follows:

27 *1. To the extent that money is available, the Director shall,*
28 *with the approval of the Board, establish a program of treatment*
29 *for offenders with a substance use disorder using medication-*
30 *assisted treatment.*

31 *2. The program established pursuant to subsection 1 must:*

32 *(a) Provide each eligible offender who participates in the*
33 *program with appropriate medication-assisted treatment for the*
34 *period in which the offender is incarcerated; and*

35 *(b) Require that all decisions regarding the type, dosage or*
36 *duration of any medication administered to an eligible offender as*
37 *part of his or her medication-assisted treatment be made by a*
38 *treating physician and the eligible offender.*

39 *3. Except as otherwise provided in this section, any offender*
40 *who the Director has determined has a substance use disorder for*
41 *which a medication-assisted treatment exists and who meets any*
42 *reasonable conditions imposed by the Director pursuant to*
43 *subsection 4 is eligible to participate in the program established*
44 *pursuant to subsection 1 and must be offered the opportunity to*
45 *participate. If an offender received medication-assisted treatment*



1 *immediately preceding his or her incarceration, the offender is*
2 *eligible to continue that medication-assisted treatment as a*
3 *participant in the program. Participation in the program must be*
4 *voluntary.*

5 4. *Except as otherwise provided in this subsection, the*
6 *Director may impose reasonable conditions for an offender to be*
7 *eligible to participate in the program established pursuant to*
8 *subsection 1 and to continue his or her participation in the*
9 *program. The Director shall not deny an offender the ability to*
10 *participate in the program or terminate the participation of an*
11 *offender in the program on the basis that:*

12 (a) *The results of a screening test administered to the offender*
13 *upon the commencement of his or her incarceration or upon the*
14 *commencement of his or her participation in the program*
15 *indicated the presence of a controlled substance; or*

16 (b) *The offender committed an infraction of the rules of the*
17 *institution or facility before or during the participation of the*
18 *offender in the program.*

19 5. *An offender who participates in the program established*
20 *pursuant to subsection 1 is not subject to discipline on the basis*
21 *that the results of a screening test administered to the offender*
22 *during his or her participation in the program indicated the*
23 *presence of a controlled substance.*

24 6. *As used in this section, "medication-assisted treatment"*
25 *means treatment for a substance use disorder using medication*
26 *approved by the United States Food and Drug Administration for*
27 *that purpose.*

28 **Sec. 12.7.** Chapter 211 of NRS is hereby amended by adding
29 thereto a new section to read as follows:

30 1. *To the extent that money is available, a sheriff, chief of*
31 *police or town marshal who is responsible for a county, city or*
32 *town jail or detention facility shall establish a program to provide*
33 *for the treatment of prisoners with a substance use disorder using*
34 *medication-assisted treatment.*

35 2. *The program established pursuant to subsection 1 must:*

36 (a) *Provide each eligible prisoner who participates in the*
37 *program with appropriate medication-assisted treatment for the*
38 *period in which the prisoner is incarcerated; and*

39 (b) *Require that all decisions regarding the type, dosage or*
40 *duration of any medication administered to an eligible prisoner as*
41 *part of his or her medication-assisted treatment be made by a*
42 *treating physician and the eligible prisoner.*

43 3. *Except as otherwise provided in this section, any prisoner*
44 *who the sheriff, chief of police or town marshal has determined*
45 *has a substance use disorder for which a medication-assisted*



1 *treatment exists and who meets any reasonable conditions imposed*
2 *by the sheriff, chief of police or town marshal pursuant to*
3 *subsection 4 is eligible to participate in the program established*
4 *pursuant to subsection 1 and must be offered the opportunity to*
5 *participate. If a prisoner received medication-assisted treatment*
6 *immediately preceding his or her incarceration, the prisoner is*
7 *eligible to continue that medication-assisted treatment as a*
8 *participant in the program. Participation in the program must be*
9 *voluntary.*

10 4. *Except as otherwise provided in this subsection, the sheriff,*
11 *chief of police or town marshal may impose reasonable conditions*
12 *for a prisoner to be eligible to participate in the program*
13 *established pursuant to subsection 1 and to continue his or her*
14 *participation in the program. The sheriff, chief of police or town*
15 *marshal shall not deny a prisoner the ability to participate in the*
16 *program or terminate the participation of a prisoner in the*
17 *program on the basis that:*

18 (a) *The results of a screening test administered to the prisoner*
19 *upon the commencement of his or her incarceration or upon the*
20 *commencement of his or her participation in the program*
21 *indicated the presence of a controlled substance; or*

22 (b) *The prisoner committed an infraction of the rules of the*
23 *county, city or town jail or detention facility before or during the*
24 *participation of the prisoner in the program.*

25 5. *A prisoner who participates in the program established*
26 *pursuant to subsection 1 is not subject to discipline on the basis*
27 *that the results of a screening test administered to the prisoner*
28 *during his or her participation in the program indicated the*
29 *presence of a controlled substance.*

30 6. *As used in this section, “medication-assisted treatment”*
31 *means treatment for a substance use disorder using medication*
32 *approved by the United States Food and Drug Administration for*
33 *that purpose.*

34 **Sec. 13.** NRS 391.650 is hereby amended to read as follows:

35 391.650 As used in NRS 391.650 to 391.826, inclusive, unless
36 the context otherwise requires:

37 1. “Administrator” means any employee who holds a license as
38 an administrator and who is employed in that capacity by a school
39 district.

40 2. “Board” means the board of trustees of the school district in
41 which a licensed employee affected by NRS 391.650 to 391.826,
42 inclusive, is employed.

43 3. “Demotion” means demotion of an administrator to a
44 position of lesser rank, responsibility or pay and does not include



1 transfer or reassignment for purposes of an administrative
2 reorganization.

3 4. "Immorality" means:

4 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
5 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,
6 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an
7 act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405,
8 inclusive, *and section 1 of this act*, 453.560 or 453.562; or

9 (b) An act forbidden by NRS 201.540 or any other sexual
10 conduct or attempted sexual conduct with a pupil enrolled in an
11 elementary or secondary school. As used in this paragraph, "sexual
12 conduct" has the meaning ascribed to it in NRS 201.520.

13 5. "Postprobationary employee" means an administrator or a
14 teacher who has completed the probationary period as provided in
15 NRS 391.820 and has been given notice of reemployment. The term
16 does not include a person who is deemed to be a probationary
17 employee pursuant to NRS 391.730.

18 6. "Probationary employee" means:

19 (a) An administrator or a teacher who is employed for the period
20 set forth in NRS 391.820; and

21 (b) A person who is deemed to be a probationary employee
22 pursuant to NRS 391.730.

23 7. "Superintendent" means the superintendent of a school
24 district or a person designated by the board or superintendent to act
25 as superintendent during the absence of the superintendent.

26 8. "Teacher" means a licensed employee the majority of whose
27 working time is devoted to the rendering of direct educational
28 service to pupils of a school district.

