

ASSEMBLY BILL NO. 280—ASSEMBLYMEN BUCKLEY, CARPENTER, OHRENSCHALL, LESLIE, THOMAS, SEGERBLOM, PERKINS, GIUNCHIGLIANI, LEE, ARBERRY, PARKS, WILLIAMS, MANENDO, ANDERSON, PRICE, FREEMAN, GOLDWATER, GIBBONS, MCCLAIN, KOIVISTO, COLLINS, BACHE, TIFFANY, NEIGHBORS, NOLAN, HETTRICK AND EVANS

FEBRUARY 18, 1999

Referred to Committee on Health and Human Services

SUMMARY—Prohibits use of aversive intervention on persons with disabilities under certain circumstances. (BDR 39-286)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 persons with disabilities; prohibiting the use of aversive intervention on persons with disabilities under certain circumstances; providing penalties; and providing other matters properly relating thereto.

- 1 WHEREAS, Providing appropriate health and educational services to
- 2 persons with disabilities is essential to fulfilling this state's important goal
- 3 of ensuring equality of opportunity, full participation, independent living
- 4 and economic self-sufficiency for persons with disabilities; and
- 5 WHEREAS, A person with a disability who is receiving health or
- 6 educational services in this state is entitled to receive those services in an
- 7 environment that is the least restrictive, as determined by his disability, and
- 8 is entitled to be treated with dignity and respect by the staff of the facility
- 9 or school where he is receiving services; and
- 10 WHEREAS, A person with a disability who is receiving health or
- 11 educational services in this state is entitled to a comprehensive treatment or
- 12 educational program that does not authorize disciplinary measures when
- 13 convenient for the members of the staff of the facility or school; now,
- 14 therefore,

1 THE PEOPLE OF THE STATE OF NEVADA,
2 REPRESENTED IN SENATE AND ASSEMBLY, DO
3 ENACT AS FOLLOWS:
4

5 **Section 1.** Chapter 433 of NRS is hereby amended by adding thereto
6 the provisions set forth as sections 2 to 21, inclusive, of this act.

7 **Sec. 2.** *As used in sections 2 to 21, inclusive, of this act, unless the*
8 *context otherwise requires, the words and terms defined in sections 3 to*
9 *13, inclusive, of this act have the meanings ascribed to them in those*
10 *sections.*

11 **Sec. 3.** *“Aversive intervention” means:*

- 12 *1. The use of noxious odors and tastes;*
- 13 *2. The use of water and other mists or sprays;*
- 14 *3. The use of blasts of air;*
- 15 *4. The use of corporal punishment;*
- 16 *5. The use of verbal and mental abuse;*
- 17 *6. The use of electric shock;*
- 18 *7. The placement of a person in seclusion;*
- 19 *8. Requiring a person to obtain or maintain a physically painful*
20 *position, excluding physical restraint;*
- 21 *9. Requiring a person to perform exercise under forced conditions;*
- 22 *10. Any intervention, technique or procedure that deprives a person*
23 *of the use of one or more of his senses, regardless of the length of the*
24 *deprivation;*
- 25 *11. The deprivation of necessities needed to sustain the health of a*
26 *person, regardless of the length of the deprivation; or*
- 27 *12. The use of time out in another room in an emergency.*

28 **Sec. 4.** *“Chemical restraint” means the administration of drugs for*
29 *the specific and exclusive purpose of controlling an acute or episodic*
30 *aggressive behavior when alternative intervention techniques have failed*
31 *to limit or control the behavior. The term does not include the*
32 *administration of drugs on a regular basis, as prescribed by a physician,*
33 *to treat the symptoms of mental, physical, emotional or behavioral*
34 *disorders and for assisting a person in gaining self-control over his*
35 *impulses.*

36 **Sec. 5.** *“Corporal punishment” means the intentional infliction of*
37 *physical pain, including, without limitation, hitting, pinching or striking.*

38 **Sec. 6.** *“Electric shock” means the application of electric current to*
39 *a person’s skin or body.*

40 **Sec. 7.** *“Emergency” means a situation in which immediate*
41 *intervention is necessary to protect the physical safety of a person or*
42 *others from an immediate threat of physical injury or to protect against*
43 *an immediate threat of severe property damage.*

1 **Sec. 8.** *“Exclusionary time out” means the removal of a person from*
2 *an ongoing activity to a location where the person cannot observe the*
3 *activity.*

4 **Sec. 9.** *“Mechanical restraint” means the use of devices, including,*
5 *without limitation, mittens, straps and restraint chairs to limit a person’s*
6 *movement or hold a person immobile.*

7 **Sec. 10.** *“Physical restraint” means the use of physical contact to*
8 *limit a person’s movement or hold a person immobile.*

9 **Sec. 11.** *“Seclusion” means the placement of a person alone in a*
10 *room where release from the room is prohibited by a mechanism,*
11 *including, without limitation, a lock, device or object positioned to hold*
12 *the door closed or otherwise prevent the person from leaving the room.*
13 *The term does not include exclusionary time out or time out in another*
14 *room.*

15 **Sec. 12.** *“Time out in another room” means the removal of a person*
16 *from an ongoing activity to an unlocked room where the door to the*
17 *room is held shut by another person or by a mechanism that requires the*
18 *constant physical pressure of another person to keep the mechanism*
19 *engaged. The term is equivalent to the term “time-out room” as referred*
20 *to in 42 C.F.R. § 483.450.*

21 **Sec. 13.** *“Verbal and mental abuse” means actions or utterances*
22 *that cause mental distress including, without limitation, the use of*
23 *obscene gestures and words to frighten, humiliate, intimidate, threaten or*
24 *insult.*

25 **Sec. 14.** *A person employed by a facility or any other person shall*
26 *not use any aversive intervention on a client.*

27 **Sec. 15.** *A person employed by a facility or any other person shall*
28 *not:*

29 1. *Except as otherwise provided in section 16 of this act, place a*
30 *client on exclusionary time out or time out in another room.*

31 2. *Except as otherwise provided in section 17 of this act, use physical*
32 *restraint on a client.*

33 3. *Except as otherwise provided in section 18 of this act, use*
34 *mechanical restraint on a client.*

35 4. *Except as otherwise provided in section 19 of this act, use*
36 *chemical restraint on a client.*

37 **Sec. 16.** 1. *A client may be placed on exclusionary time out or time*
38 *out in another room if:*

39 (a) *The use of the procedure is:*

40 (1) *Based upon a need identified in the client’s plan of care; and*

41 (2) *Included in the client’s plan of care, for which informed*
42 *consent has been obtained pursuant to NRS 433.484;*

1 (b) The procedure is carried out in accordance with the client's plan
2 of care;

3 (c) The procedure is the lowest level of intrusiveness required to
4 influence the behavior of the client and is not excessively intrusive in
5 relation to that behavior;

6 (d) The use of the procedure is supported by documentation in the
7 client's record that indicates:

8 (1) Less intrusive procedures have been tried on the client but have
9 failed to change the inappropriate behavior of the client;

10 (2) The length of time the less intrusive procedures were used; and

11 (3) The possible reasons why the less intrusive procedures failed;

12 (e) The procedure is carried out and continuously monitored by
13 members of the staff of the facility who are qualified and trained in the
14 proper application of the procedure;

15 (f) The client is protected from hazardous conditions;

16 (g) Except as otherwise provided in paragraph (k), the release of the
17 client from time out is contingent upon whether the client stops or
18 controls the behavior that precipitated the use of time out;

19 (h) The staff who are responsible for monitoring the client attempt to
20 return the client to the activity from which he was removed at least every
21 30 minutes, regardless of whether the client stops or controls the
22 behavior that precipitated the use of time out;

23 (i) The client is offered access to a toilet and water at least every 30
24 minutes;

25 (j) The client is released from time out immediately if he stops or
26 controls the behavior that precipitated the time out and is returned to the
27 activity from which he was removed, if possible; and

28 (k) Placement of the client on time out does not exceed 60 consecutive
29 minutes after the initiation of the time out.

30 2. The facility shall maintain a record of each time that a client is
31 placed on time out.

32 **Sec. 17. 1. Except as otherwise provided in subsection 2, physical**
33 **restraint may be used on a client only if:**

34 (a) An emergency exists that necessitates the use of physical restraint;

35 (b) The physical restraint is used only for the period that is necessary
36 to contain the behavior of the client so that the client is no longer an
37 immediate threat to himself or others; and

38 (c) The use of force in the application of physical restraint does not
39 exceed the force that is reasonable and necessary under the
40 circumstances precipitating the use of physical restraint.

41 2. Physical restraint may be used on a client and the provisions of
42 subsection 1 do not apply if the physical restraint is used to:

1 (a) Assist the client in completing a task or response if the client does
2 not resist the application of physical restraint or if his resistance is
3 minimal in intensity and duration;

4 (b) Escort or carry a client to safety if the client is in danger in his
5 present location; or

6 (c) Conduct medical examinations or treatments on the client that are
7 necessary.

8 3. If physical restraint is used on a client in an emergency, the use of
9 the procedure must be reported as a denial of rights pursuant to NRS
10 433.534, regardless of whether the use of the procedure is authorized by
11 statute. The report must be made not later than 1 working day after the
12 procedure is used.

13 **Sec. 18. 1.** Except as otherwise provided in subsection 2,
14 mechanical restraint may be used on a client only if:

15 (a) An emergency exists that necessitates the use of mechanical
16 restraint;

17 (b) A medical order authorizing the use of mechanical restraint is
18 obtained from the client's treating physician before the application of the
19 mechanical restraint or not later than 15 minutes after the application of
20 the mechanical restraint;

21 (c) The physician who signed the order required pursuant to
22 paragraph (b) examines the client on the working day immediately after
23 the application of the mechanical restraint;

24 (d) The mechanical restraint is applied by a member of the staff of the
25 facility who is trained and qualified to apply mechanical restraint;

26 (e) The client is released from the mechanical restraint to move and
27 exercise the parts of his body that are restrained at least 10 minutes per
28 every 60 minutes of restraint;

29 (f) A member of the staff of the facility lessens or discontinues the
30 restraint every 15 minutes to determine whether the client will stop or
31 control his inappropriate behavior without the use of the restraint;

32 (g) The record of the client contains a notation that includes the time
33 of day that the restraint was lessened or discontinued pursuant to
34 paragraph (f) and the response of the client; and

35 (h) The client is released from the mechanical restraint as soon as his
36 behavior no longer presents an immediate threat to himself or others.

37 2. Mechanical restraint may be used on a client and the provisions of
38 subsection 1 do not apply if the mechanical restraint is used to:

39 (a) Treat the medical needs of a client;

40 (b) Protect a client who is known to be at risk of injury to himself
41 because he lacks coordination or suffers from frequent loss of
42 consciousness; or

1 (c) Position a client who has physical disabilities in a manner
2 prescribed in the client's plan of services.

3 3. If mechanical restraint is used on a client in an emergency, the
4 use of the procedure must be reported as a denial of rights pursuant to
5 NRS 433.534, regardless of whether the use of the procedure is
6 authorized by statute. The report must be made not later than 1 working
7 day after the procedure is used.

8 **Sec. 19. 1.** Chemical restraint may only be used on a client if:

9 (a) The client has been diagnosed as mentally ill, as defined in NRS
10 433A.115, and is receiving mental health services from a facility;

11 (b) Except as otherwise provided in subsection 4, the chemical
12 restraint is administered to the client while he is under the care of the
13 facility;

14 (c) An emergency exists that necessitates the use of chemical
15 restraint;

16 (d) A medical order authorizing the use of chemical restraint is
17 obtained from the client's attending physician or psychiatrist or, if he is
18 unavailable, another licensed physician not later than 15 minutes after
19 the administration of the chemical restraint;

20 (e) The physician or psychiatrist who signed the order required
21 pursuant to paragraph (d) examines the client on the working day
22 immediately after the administration of the chemical restraint; and

23 (f) The chemical restraint is administered by a licensed physician or
24 registered nurse.

25 2. If chemical restraint is used on a client, the use of the procedure
26 must be reported as a denial of rights pursuant to NRS 433.534,
27 regardless of whether the use of the procedure is authorized by statute.
28 The report must be made not later than 1 working day after the
29 procedure is used.

30 3. If the client's attending physician or psychiatrist did not sign the
31 order required pursuant to paragraph (d) of subsection 1, the licensed
32 physician who signed the order shall consult with and provide notice of
33 the administration of the chemical restraint to the client's attending
34 physician or psychiatrist not later than 2 working days after the
35 procedure is used.

36 4. If a client is transported from a facility to an independent center
37 for emergency medical care, as defined in NRS 449.013, chemical
38 restraint may be administered to the client while he is under the care of
39 the center in accordance with the provisions of this section.

40 **Sec. 20. 1.** Each facility shall develop a program of education for
41 the members of the staff of the facility to provide instruction in positive
42 behavioral interventions and positive behavioral supports that:

1 (a) Includes positive methods to modify the environment of clients to
2 promote adaptive behavior and reduce the occurrence of inappropriate
3 behavior;

4 (b) Includes methods to teach skills to clients so that clients can
5 replace inappropriate behavior with adaptive behavior;

6 (c) Includes methods to enhance a client's independence and quality
7 of life;

8 (d) Includes the use of the least intrusive methods to respond to and
9 reinforce the behavior of clients; and

10 (e) Offers a process for designing interventions based upon the client
11 that are focused on promoting appropriate changes in behavior as well as
12 enhancing the overall quality of life for the client.

13 2. Each facility shall provide appropriate training for the members of
14 the staff of the facility who are authorized to carry out and monitor
15 exclusionary time out, time out in another room, physical restraint,
16 mechanical restraint and chemical restraint to ensure that those
17 members of the staff are competent and qualified to carry out the
18 procedures in accordance with sections 2 to 21, inclusive, of this act.

19 **Sec. 21. 1.** A facility where a violation of the provisions of sections
20 2 to 21, inclusive, of this act occurs shall:

21 (a) Not later than 24 hours after a violation occurs, or as soon
22 thereafter as the violation is discovered, report the violation to the
23 division; and

24 (b) Develop, in cooperation with the division, a corrective plan to
25 ensure that within 30 calendar days after the violation occurred,
26 appropriate action is taken by the facility to prevent future violations.

27 2. The division shall forward the plan to the director of the
28 department. The director or his designee shall review the plan to ensure
29 that it complies with applicable federal law and the statutes and
30 regulations of this state. The director or his designee may require
31 appropriate revision of the plan to ensure compliance.

32 3. If the facility where the violation occurred does not meet the
33 requirements of the plan to the satisfaction of the director or his
34 designee, the department may withhold funding for the facility until the
35 facility meets the requirements of the plan.

36 **Sec. 22.** NRS 433.484 is hereby amended to read as follows:

37 433.484 Each client admitted for evaluation, treatment or training to a
38 facility has the following rights, concerning care, treatment and training, a
39 list of which must be prominently posted in all facilities providing those
40 services and must be otherwise brought to the attention of the client by such
41 additional means as prescribed by regulation:

42 1. To medical, psychosocial and rehabilitative care, treatment and
43 training including prompt and appropriate medical treatment and care for

1 physical and mental ailments and for the prevention of any illness or
2 disability. All of that care, treatment and training must be consistent with
3 standards of practice of the respective professions in the community and is
4 subject to the following conditions:

5 (a) Before instituting a plan of care, treatment or training or carrying out
6 any necessary surgical procedure, express and informed consent must be
7 obtained in writing from:

8 (1) The client if he is 18 years of age or over or legally emancipated
9 and competent to give that consent, and from his legal guardian, if any;

10 (2) The parent or guardian of a client under 18 years of age and not
11 legally emancipated; or

12 (3) The legal guardian of a client of any age who has been
13 adjudicated mentally incompetent;

14 (b) An informed consent requires that the person whose consent is
15 sought be adequately informed as to:

16 (1) The nature and consequences of the procedure;

17 (2) The reasonable risks, benefits and purposes of the procedure; and

18 (3) Alternative procedures available;

19 (c) The consent of a client as provided in paragraph (b) may be
20 withdrawn by the client in writing at any time with or without cause;

21 (d) Even in the absence of express and informed consent, a licensed and
22 qualified physician may render emergency medical care or treatment to any
23 client who has been injured in an accident or who is suffering from an acute
24 illness, disease or condition, if within a reasonable degree of medical
25 certainty, delay in initiation of emergency medical care or treatment would
26 endanger the health of the client and if the treatment is immediately entered
27 into the client's record of treatment, subject to the provisions of paragraph
28 (e); and

29 (e) If the proposed emergency medical care or treatment is deemed by
30 the chief medical officer of the facility to be unusual, experimental or
31 generally occurring infrequently in routine medical practice, the chief
32 medical officer shall request consultation from other physicians or
33 practitioners of healing arts who have knowledge of the proposed care or
34 treatment.

35 2. To be free from ~~the application of any mechanical restraint, except~~
36 ~~if prescribed by a physician. If so prescribed, the restraint must be removed~~
37 ~~whenever the condition justifying its use no longer exists, and any use of a~~
38 ~~mechanical restraint, together with the reasons therefor, must be made a~~
39 ~~part of the client's record of treatment.] abuse, neglect and aversive~~
40 ~~intervention.~~

41 3. To consent to his transfer from one facility to another, except that
42 the administrator of the mental hygiene and mental retardation division of
43 the department or his designee, or the administrator of the division of child

1 and family services of the department or his designee, may order a transfer
2 to be made whenever conditions concerning care, treatment or training
3 warrant it. If the client in any manner objects to the transfer, the person
4 ordering it must enter the objection and a written justification of the
5 transfer in the client's record of treatment and immediately forward a notice
6 of the objection to the administrator who ordered the transfer, and the
7 commission shall review the transfer pursuant to subsection 3 of NRS
8 433.534.

9 4. Other rights concerning care, treatment and training as may be
10 specified by regulation of the commission.

11 **Sec. 23.** NRS 433.514 is hereby amended to read as follows:

12 433.514 1. ~~[The]~~ *Except as otherwise provided in paragraph (d) of*
13 *subsection 1 of section 19 of this act, the* attending psychiatrist or
14 physician shall be responsible for all medication given or administered to a
15 client.

16 2. Each administrative officer shall establish a policy for the review of
17 the administration, storage and handling of medications by nurses and
18 nonprofessional personnel.

19 **Sec. 24.** NRS 433.554 is hereby amended to read as follows:

20 433.554 1. An employee of a public or private mental health facility
21 or any other person, except a client, who:

22 (a) Has reason to believe that a client of the division or of a private
23 facility offering mental health services has been or is being abused or
24 neglected and fails to report it;

25 (b) Brings intoxicating beverages or a controlled substance into any
26 division facility occupied by clients unless specifically authorized to do so
27 by the administrative officer or a staff physician of the facility;

28 (c) Is under the influence of liquor or a controlled substance while
29 employed in contact with clients, unless in accordance with a lawfully
30 issued prescription;

31 (d) Enters into any transaction with a client involving the transfer of
32 money or property for personal use or gain at the expense of the client; or

33 (e) Contrives the escape, elopement or absence of a client,
34 is guilty of a misdemeanor, in addition to any other penalties provided by
35 law.

36 2. In addition to any other penalties provided by law, an employee of a
37 public or private mental health facility or any other person, except a client,
38 who willfully abuses or neglects a client:

39 (a) ~~[If no]~~ *For a first violation that does not result in* substantial bodily
40 harm to the client, ~~[results,]~~ is guilty of a gross misdemeanor.

41 (b) ~~[If]~~ *For a first violation that results in* substantial bodily harm to
42 the client, ~~[results,]~~ is guilty of a category B felony. ~~[and]~~

1 *(c) For a second or subsequent violation, is guilty of a category B*
2 *felony.*

3 *A person convicted of a category B felony pursuant to this section* shall
4 be punished by imprisonment in the state prison for a minimum term of not
5 less than 1 year and a maximum term of not more than 6 years, or by a fine
6 of not more than \$5,000, or by both fine and imprisonment.

7 3. A person who is convicted pursuant to this section is ineligible for 5
8 years for appointment to or employment in a position in the state service
9 and, if he is an officer or employee of the state, he forfeits his office or
10 position.

11 4. *A conviction pursuant to NRS 433.554 is, when applicable,*
12 *grounds for disciplinary action against the person so convicted and the*
13 *facility where the violation occurred. The division may recommend to the*
14 *appropriate agency or board the suspension or revocation of the*
15 *professional license, registration, certificate or permit of a person*
16 *convicted pursuant to NRS 433.554.*

17 5. For the purposes of this section:

18 (a) “Abuse” means any willful and unjustified infliction of pain, injury
19 or mental anguish upon a client, including, but not limited to:

20 (1) The rape, sexual assault or sexual exploitation of the client;

21 (2) ~~{Striking the client;~~

22 ~~—(3) Verbal intimidation or coercion of the client without a redeeming~~
23 ~~purpose;~~

24 ~~—(4) The use of excessive force when placing the client in physical~~
25 ~~restraints; and~~

26 ~~—(5) The use of any type of aversive intervention;~~

27 (3) *A violation of section 15 of this act; and*

28 (4) The use of physical, ~~{or}~~ chemical *or mechanical* restraints *or*
29 *the use of time out in another room* in violation of ~~{state—or}~~ federal
30 law.

31 Any act which meets the standard of practice for care and treatment does
32 not constitute abuse.

33 (b) “Client” includes any person who seeks, on his own or others’
34 initiative, and can benefit from care, treatment and training in a public or
35 private institution or facility offering mental health services. The term does
36 not include a client of the division of child and family services of the
37 department.

38 (c) “Neglect” means any omission to act which causes injury to a client
39 or which places the client at risk of injury, including, but not limited to, the
40 failure to follow:

41 (1) An appropriate plan of treatment to which the client has
42 consented;

and

1 (2) The policies of the facility for the care and treatment of
2 clients.

3 Any omission to act which meets the standard of practice for care and
4 treatment does not constitute neglect.

5 (d) "Standard of practice" means the skill and care ordinarily exercised
6 by prudent professional personnel engaged in health care.

7 **Sec. 25.** NRS 435.350 is hereby amended to read as follows:

8 435.350 1. Each mentally retarded person admitted to a division
9 facility is entitled to all rights enumerated in *sections 2 to 21, inclusive, of*
10 *this act and* NRS 433.482 and 433.484.

11 2. The administrator shall designate a person or persons to be
12 responsible for establishment of regulations relating to denial of rights of
13 mentally retarded persons. The person designated shall file the regulations
14 with the administrator.

15 3. Clients' rights specified in NRS 433.482 and 433.484 may be denied
16 only for cause. Any denial of such rights must be entered in the client's
17 treatment record, and notice of such *a* denial must be forwarded to the
18 administrator's designee or designees as provided in subsection 2. Failure
19 to report denial of rights by an employee may be grounds for dismissal.

20 4. Upon receipt of notice of a denial of rights as provided in subsection
21 3, the administrator's designee or designees shall cause a full report to be
22 prepared which sets forth in detail the factual circumstances surrounding
23 such *a* denial. A copy of the report must be sent to the administrator and the
24 commission.

25 5. The commission has such powers and duties with respect to reports
26 of denial of rights as are enumerated in subsection 3 of NRS 433.534.

27 **Sec. 26.** Chapter 388 of NRS is hereby amended by adding thereto the
28 provisions set forth as sections 27 to 50, inclusive, of this act.

29 **Sec. 27.** *As used in sections 27 to 50, inclusive, of this act, unless the*
30 *context otherwise requires, the words and terms defined in sections 28 to*
31 *40, inclusive, of this act have the meanings ascribed to them in those*
32 *sections.*

33 **Sec. 28.** *"Aversive intervention" means:*

34 1. *The use of noxious odors and tastes;*

35 2. *The use of water and other mists or sprays;*

36 3. *The use of blasts of air;*

37 4. *The use of corporal punishment;*

38 5. *The use of verbal and mental abuse;*

39 6. *The use of electric shock;*

40 7. *The administration of chemical restraint to a person;*

41 8. *The placement of a person in seclusion;*

42 9. *Requiring a person to obtain or maintain a physically painful*
43 *position, excluding physical restraint;*

1 10. *Requiring a person to perform exercise under forced conditions;*

2 11. *Any intervention, technique or procedure that deprives a person*
3 *of the use of one or more of his senses, regardless of the length of the*
4 *deprivation;*

5 12. *The deprivation of necessities needed to sustain the health of a*
6 *person, regardless of the length of the deprivation; or*

7 13. *The use of time out in another room in an emergency.*

8 Sec. 29. *“Chemical restraint” means the administration of drugs for*
9 *the specific and exclusive purpose of controlling an acute or episodic*
10 *aggressive behavior when alternative intervention techniques have failed*
11 *to limit or control the behavior. The term does not include the*
12 *administration of drugs on a regular basis, as prescribed by a physician,*
13 *to treat the symptoms of mental, physical, emotional or behavioral*
14 *disorders and for assisting a person in gaining self-control over his*
15 *impulses.*

16 Sec. 30. *“Corporal punishment” means the intentional infliction of*
17 *physical pain, including, without limitation, hitting, pinching or striking.*

18 Sec. 31. *“Electric shock” means the application of electric current*
19 *to a person’s skin or body.*

20 Sec. 32. *“Emergency” means a situation in which immediate*
21 *intervention is necessary to protect the physical safety of a person or*
22 *others from an immediate threat of physical injury or to protect against*
23 *an immediate threat of severe property damage.*

24 Sec. 33. *“Exclusionary time out” means the removal of a person*
25 *from an ongoing activity to a location where the person cannot observe*
26 *the activity.*

27 Sec. 34. *“Individualized education program” has the meaning*
28 *ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

29 Sec. 35. *“Individualized education program team” has the meaning*
30 *ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

31 Sec. 36. *“Mechanical restraint” means the use of devices, including,*
32 *without limitation, mittens, straps and restraint chairs to limit a person’s*
33 *movement or hold a person immobile.*

34 Sec. 37. *“Physical restraint” means the use of physical contact to*
35 *limit a person’s movement or hold a person immobile.*

36 Sec. 38. *“Seclusion” means the placement of a person alone in a*
37 *room where release from the room is prohibited by a mechanism,*
38 *including, without limitation, a lock, device or object positioned to hold*
39 *the door closed or otherwise prevent the person from leaving the room.*
40 *The term does not include exclusionary time out or time out in another*
41 *room.*

42 Sec. 39. *“Time out in another room” means the removal of a person*
43 *from an ongoing activity to an unlocked room where the door to the*

1 room is held shut by another person or by a mechanism that requires the
2 constant physical pressure of another person to keep the mechanism
3 engaged. The term is equivalent to the term “time-out room” as referred
4 to in 42 C.F.R. § 483.450.

5 **Sec. 40.** “Verbal and mental abuse” means actions or utterances
6 that cause mental distress including, without limitation, the use of
7 obscene gestures and words to frighten, humiliate, intimidate, threaten or
8 insult.

9 **Sec. 41.** A person employed by the board of trustees of a school
10 district or any other person shall not use any aversive intervention on a
11 pupil with a disability.

12 **Sec. 42.** A person employed by the board of trustees of a school
13 district or any other person shall not:

14 1. Except as otherwise provided in section 43 of this act, place a
15 pupil with a disability on exclusionary time out or time out in another
16 room.

17 2. Except as otherwise provided in section 44 of this act, use physical
18 restraint on a pupil with a disability.

19 3. Except as otherwise provided in section 45 of this act, use
20 mechanical restraint on a pupil with a disability.

21 **Sec. 43.** 1. A pupil with a disability may be placed on exclusionary
22 time out or time out in another room if:

23 (a) The use of the procedure is:

24 (1) Based upon a need identified in the pupil’s individualized
25 education program; and

26 (2) Included in the pupil’s individualized education program;

27 (b) Before the procedure is used, the parent or guardian of the pupil
28 provides his informed consent, as set forth in 34 C.F.R. § 300.500;

29 (c) The procedure is carried out in accordance with the pupil’s
30 individualized education program;

31 (d) The procedure is the lowest level of intrusiveness required to
32 influence the behavior of the pupil and is not excessively intrusive in
33 relation to that behavior;

34 (e) The use of the procedure is supported by documentation in the
35 pupil’s record that indicates:

36 (1) Less intrusive procedures have been tried on the pupil but have
37 failed to change the inappropriate behavior of the pupil;

38 (2) The length of time the less intrusive procedures were used; and

39 (3) The possible reasons why the less intrusive procedures failed;

40 (f) The procedure is carried out and continuously monitored by
41 members of the staff of the school who are qualified and trained in the
42 proper application of the procedure;

43 (g) The pupil is protected from hazardous conditions;

1 (h) Except as otherwise provided in paragraph (l), the release of the
2 pupil from time out is contingent upon whether the pupil stops or
3 controls the behavior that precipitated the use of time out;

4 (i) The staff who are responsible for monitoring the pupil attempt to
5 return the pupil to the activity from which he was removed at least every
6 30 minutes, regardless of whether the pupil stops or controls the behavior
7 that precipitated the use of time out;

8 (j) The pupil is offered access to a toilet and water at least every 30
9 minutes;

10 (k) The pupil is released from time out immediately if he stops or
11 controls the behavior that precipitated the time out and is returned to the
12 activity from which he was removed, if possible; and

13 (l) Placement of the pupil on time out does not exceed 60 consecutive
14 minutes after the initiation of the time out.

15 2. A school shall maintain a record of each time that a pupil with a
16 disability is placed on time out.

17 **Sec. 44. 1.** Except as otherwise provided in subsection 2, physical
18 restraint may be used on a pupil with a disability only if:

19 (a) An emergency exists that necessitates the use of physical restraint;

20 (b) The physical restraint is used only for the period time that is
21 necessary to contain the behavior of the pupil so that the pupil is no
22 longer an immediate threat to himself or others; and

23 (c) The use of force in the application of physical restraint does not
24 exceed the force that is reasonable and necessary under the
25 circumstances precipitating the use of physical restraint.

26 2. Physical restraint may be used on a pupil with a disability and the
27 provisions of subsection 1 do not apply if the physical restraint is used to:

28 (a) Assist the pupil in completing a task or response if the pupil does
29 not resist the application of physical restraint or if his resistance is
30 minimal in intensity and duration;

31 (b) Escort or carry a pupil to safety if the pupil is in danger in his
32 present location; or

33 (c) Conduct medical examinations or treatments on the pupil that are
34 necessary.

35 3. If physical restraint is used on a pupil with a disability in an
36 emergency, the use of the procedure must be reported in the pupil's
37 cumulative record and a confidential file maintained for the pupil not
38 later than 1 working day after the procedure is used. A copy of the report
39 must be provided to the board of trustees of the school district, the pupil's
40 individualized education program team and the parent or guardian of the
41 pupil. If the board of trustees determines that a denial of the pupil's
42 rights has occurred, the board of trustees may submit a report to the
43 department in accordance with section 50 of this act.

1 **Sec. 45. 1. Except as otherwise provided in subsection 2,**
2 **mechanical restraint may be used on a pupil with a disability only if:**

3 **(a) An emergency exists that necessitates the use of mechanical**
4 **restraint;**

5 **(b) A medical order authorizing the use of mechanical restraint is**
6 **obtained from the pupil's treating physician before the application of the**
7 **mechanical restraint or not later than 15 minutes after the application of**
8 **the mechanical restraint;**

9 **(c) The physician who signed the order required pursuant to**
10 **paragraph (b) examines the pupil on the working day immediately after**
11 **the application of the mechanical restraint;**

12 **(d) The mechanical restraint is applied by a member of the staff of the**
13 **school who is trained and qualified to apply mechanical restraint;**

14 **(e) The pupil is released from the mechanical restraint to move and**
15 **exercise the parts of his body that are restrained at least 10 minutes per**
16 **every 60 minutes of restraint;**

17 **(f) A member of the staff of the school lessens or discontinues the**
18 **restraint every 15 minutes to determine whether the pupil will stop or**
19 **control his inappropriate behavior without the use of the restraint;**

20 **(g) The record of the pupil contains a notation that includes the time**
21 **of day that the restraint was lessened or discontinued pursuant to**
22 **paragraph (f) and the response of the pupil; and**

23 **(h) The pupil is released from the mechanical restraint as soon as his**
24 **behavior no longer presents an immediate threat to himself or others.**

25 **2. Mechanical restraint may be used on a pupil with a disability and**
26 **the provisions of subsection 1 do not apply if the mechanical restraint is**
27 **used to:**

28 **(a) Treat the medical needs of the pupil;**

29 **(b) Protect a pupil who is known to be at risk of injury to himself**
30 **because he lacks coordination or suffers from frequent loss of**
31 **consciousness; or**

32 **(c) Position a pupil who has physical disabilities in a manner**
33 **prescribed in the pupil's individualized education program.**

34 **3. If mechanical restraint is used on a pupil with a disability in an**
35 **emergency, the use of the procedure must be reported in the pupil's**
36 **cumulative record and a confidential file maintained for the pupil not**
37 **later than 1 working day after the procedure is used. A copy of the report**
38 **must be provided to the board of trustees of the school district, the pupil's**
39 **individualized education program team and the parent or guardian of the**
40 **pupil. If the board of trustees determines that a denial of the pupil's**
41 **rights has occurred, the board of trustees may submit a report to the**
42 **department in accordance with section 50 of this act.**

1 **Sec. 46. 1.** *The board of trustees of each school district shall*
2 *develop a program of education for the members of the staff of the*
3 *schools within the school district who provide services to pupils with*
4 *disabilities. The program of education must provide instruction in*
5 *positive behavioral interventions and positive behavioral supports that:*
6 *(a) Includes positive methods to modify the environment of pupils*
7 *with disabilities to promote adaptive behavior and reduce the occurrence*
8 *of inappropriate behavior;*
9 *(b) Includes methods to teach skills to pupils with disabilities so that*
10 *the pupils can replace inappropriate behavior with adaptive behavior;*
11 *(c) Includes methods to enhance the independence and quality of life*
12 *for pupils with disabilities;*
13 *(d) Includes the use of the least intrusive methods to respond to and*
14 *reinforce the behavior of pupils with disabilities; and*
15 *(e) Offers a process for designing interventions based upon the pupil*
16 *that are focused on promoting appropriate changes in behavior as well as*
17 *enhancing the overall quality of life for the pupil.*

18 **2.** *The board of trustees of each school district shall provide*
19 *appropriate training for the members of the staff of the schools within*
20 *the school district who are authorized to carry out and monitor*
21 *exclusionary time out, time out in another room, physical restraint and*
22 *mechanical restraint to ensure that those members of the staff are*
23 *competent and qualified to carry out the procedures in accordance with*
24 *sections 27 to 50, inclusive, of this act.*

25 **Sec. 47. 1.** *Unless a more severe penalty is prescribed by specific*
26 *statute, a person who willfully uses aversive intervention on a pupil with*
27 *a disability or violates section 42 of this act:*

28 *(a) For a first violation that does not result in substantial bodily harm*
29 *to the pupil, is guilty of a gross misdemeanor.*

30 *(b) For a first violation that results in substantial bodily harm to the*
31 *pupil, is guilty of a category B felony.*

32 *(c) For a second or subsequent violation, is guilty of a category B*
33 *felony.*

34 *A person who is convicted of a category B felony pursuant to this section*
35 *shall be punished by imprisonment in the state prison for a minimum*
36 *term of not less than 1 year and a maximum term of not more than 6*
37 *years, or by a fine of not more than \$5,000, or by both fine and*
38 *imprisonment.*

39 **2.** *A person who is convicted pursuant to this section is ineligible for*
40 *5 years for employment with the board of trustees of a school district.*

41 **3.** *A conviction pursuant to this section is grounds for disciplinary*
42 *action against the person so convicted and the school district where the*
43 *violation occurred. The superintendent of schools of the school district*

1 *may recommend to the superintendent of public instruction the*
2 *suspension or revocation of the professional license, registration,*
3 *certificate or permit of a person convicted.*

4 **Sec. 48.** 1. *A school where a violation of sections 27 to 50,*
5 *inclusive, of this act occurs shall report the violation to the board of*
6 *trustees of the school district not later than 24 hours after the violation*
7 *occurred, or as soon thereafter as the violation is discovered.*

8 2. *The board of trustees of the school district where the violation*
9 *occurred shall develop, in cooperation with the superintendent of public*
10 *instruction, a corrective plan to ensure that within 30 calendar days after*
11 *the violation occurred, appropriate action is taken by the school and the*
12 *board of trustees to prevent future violations.*

13 3. *The superintendent of public instruction shall submit the plan to*
14 *the department. The department shall review the plan to ensure that it*
15 *complies with applicable federal law and the statutes and regulations of*
16 *this state. The department may require appropriate revision of the plan to*
17 *ensure compliance.*

18 4. *If the school where the violation occurred does not meet the*
19 *requirements of the plan to the satisfaction of the department, the*
20 *department may appoint an administrator to oversee the school to ensure*
21 *that the school meets the requirements of the plan.*

22 **Sec. 49.** *An officer, administrator or employee of a public school*
23 *shall not retaliate against any person for having:*

24 1. *Reported a violation of sections 27 to 50, inclusive, of this act; or*

25 2. *Provided information regarding a violation of sections 27 to 50,*
26 *inclusive, of this act,*
27 *by a public school or a member of the staff of the public school.*

28 **Sec. 50.** 1. *A denial of rights of a pupil with a disability pursuant*
29 *to sections 27 to 50, inclusive, of this act must be entered in the pupil's*
30 *cumulative record and a confidential file maintained for that pupil.*
31 *Notice of the denial must be provided to the board of trustees of the*
32 *school district.*

33 2. *If the board of trustees of a school district receives notice of a*
34 *denial of rights pursuant to subsection 1, it shall cause a full report to be*
35 *prepared which must set forth in detail the factual circumstances*
36 *surrounding the denial. A copy of the report must be provided to the*
37 *department.*

38 3. *The department:*

39 (a) *Shall receive reports made pursuant to subsection 2;*

40 (b) *May investigate apparent violations of the rights of pupils with*
41 *disabilities; and*

42 (c) *May act to resolve disputes relating to apparent violations.*

1 **Sec. 51.** NRS 388.440 is hereby amended to read as follows:

2 388.440 As used in NRS 388.440 to 388.520, inclusive ~~§~~, and
3 *sections 27 to 50, inclusive, of this act:*

4 1. “Gifted and talented pupil” means a person under the age of 18 years
5 who demonstrates such outstanding academic skills or aptitudes that he
6 cannot progress effectively in a regular school program and therefore needs
7 special instruction or special services.

8 2. “Pupil with a disability” means a person under the age of 22 years
9 who deviates either educationally, physically, socially or emotionally so
10 markedly from normal patterns that he cannot progress effectively in a
11 regular school program and therefore needs special instruction or special
12 services.

13 **Sec. 52.** NRS 391.100 is hereby amended to read as follows:

14 391.100 1. The board of trustees of a school district may employ a
15 superintendent of schools, teachers and all other necessary employees. *The*
16 *board of trustees of a school district shall not employ a person who is*
17 *convicted pursuant to section 47 of this act for at least 5 years after the*
18 *date of conviction.*

19 2. The board of trustees of a school district:

20 (a) May employ teacher aides and other auxiliary, nonprofessional
21 personnel to assist licensed personnel in the instruction or supervision of
22 children, either in the classroom or at any other place in the school or on
23 the grounds thereof; and

24 (b) Shall establish policies governing the duties and performance of
25 teacher aides.

26 3. Each applicant for employment pursuant to this section, except a
27 teacher or other person licensed by the superintendent of public instruction,
28 must, as a condition to employment, submit to the school district a full set
29 of his fingerprints and written permission authorizing the school district to
30 forward the fingerprints to the Federal Bureau of Investigation and the
31 central repository for Nevada records of criminal history for their reports
32 on the criminal history of the applicant.

33 4. The board of trustees of a school district may employ or appoint
34 persons to serve as school police officers.

35 **Sec. 53.** NRS 391.314 is hereby amended to read as follows:

36 391.314 1. If a superintendent has reason to believe that cause exists
37 for the dismissal of a licensed employee and he is of the opinion that the
38 immediate suspension of the employee is necessary in the best interests of
39 the pupils in the district, the superintendent may suspend the employee
40 without notice and without a hearing. Notwithstanding the provisions of
41 NRS 391.312, a superintendent may suspend a licensed employee who has
42 been officially charged but not yet convicted of a felony or a crime
43 involving moral turpitude or immorality. If the charge is dismissed or if the

1 employee is found not guilty, he must be reinstated with back pay, plus
2 interest, and normal seniority. The superintendent shall notify the employee
3 in writing of the suspension.

4 2. Within 5 days after a suspension becomes effective, the
5 superintendent shall begin proceedings pursuant to the provisions of NRS
6 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The
7 employee is entitled to continue to receive his salary and other benefits
8 after the suspension becomes effective until the date on which the dismissal
9 proceedings are commenced. The superintendent may recommend that an
10 employee who has been charged with a felony or a crime involving
11 immorality be dismissed for another ground set forth in NRS 391.312.

12 3. If sufficient grounds for dismissal do not exist, the employee must
13 be reinstated with full compensation, plus interest.

14 4. A licensed employee who furnishes to the school district a bond or
15 other security which is acceptable to the board as a guarantee that he will
16 repay any amounts paid to him pursuant to this subsection as salary during
17 a period of suspension is entitled to continue to receive his salary from the
18 date on which the dismissal proceedings are commenced until the decision
19 of the board or the report of the hearing officer, if the report is final and
20 binding. The board shall not unreasonably refuse to accept security other
21 than a bond. An employee who receives salary pursuant to this subsection
22 shall repay it if he is dismissed or not reemployed as a result of a decision
23 of the board or a report of a hearing officer.

24 5. A licensed employee who is convicted of a crime which requires
25 registration pursuant to NRS 179D.200 to 179D.290, inclusive, or
26 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by
27 NRS 200.508, 201.190 or 201.265 forfeits all rights of employment from
28 the date of his arrest.

29 6. A licensed employee who is convicted of any crime and who is
30 sentenced to and serves any sentence of imprisonment forfeits all rights of
31 employment from the date of his arrest or the date on which his
32 employment terminated, whichever is later. *A licensed employee who is*
33 *convicted pursuant to section 47 of this act forfeits all rights of*
34 *employment from the date of his arrest or the date on which his*
35 *employment terminated, whichever is later.*

36 7. A licensed employee who is charged with a felony or a crime
37 involving immorality or moral turpitude and who waives his right to a
38 speedy trial while suspended may receive no more than 12 months of back
39 pay and seniority upon reinstatement if he is found not guilty or the charges
40 are dismissed, unless proceedings have been begun to dismiss the employee
41 upon one of the other grounds set forth in NRS 391.312.

42 8. A superintendent may discipline a licensed employee by suspending
43 the employee with loss of pay at any time after a hearing has been held

1 which affords the due process provided for in this chapter. The grounds for
2 suspension are the same as the grounds contained in NRS 391.312. An
3 employee may be suspended more than once during the employee's
4 contract year, but the total number of days of suspension may not exceed
5 20 in 1 contract year. Unless circumstances require otherwise, the
6 suspensions must be progressively longer.

7 **Sec. 54.** Chapter 394 of NRS is hereby amended by adding thereto the
8 provisions set forth as sections 55 to 79, inclusive, of this act.

9 **Sec. 55.** *As used in sections 55 to 79, inclusive, of this act, unless the*
10 *context otherwise requires, the words and terms defined in sections 56 to*
11 *69, inclusive, of this act have the meanings ascribed to them in those*
12 *sections.*

13 **Sec. 56.** *"Aversive intervention" means:*

- 14 *1. The use of noxious odors and tastes;*
- 15 *2. The use of water and other mists or sprays;*
- 16 *3. The use of blasts of air;*
- 17 *4. The use of corporal punishment;*
- 18 *5. The use of verbal and mental abuse;*
- 19 *6. The use of electric shock;*
- 20 *7. The administration of chemical restraint to a person;*
- 21 *8. The placement of a person in seclusion;*
- 22 *9. Requiring a person to obtain or maintain a physically painful*
23 *position, excluding physical restraint;*
- 24 *10. Requiring a person to perform exercise under forced conditions;*
- 25 *11. Any intervention, technique or procedure that deprives a person*
26 *of the use of one or more of his senses, regardless of the length of the*
27 *deprivation;*
- 28 *12. The deprivation of necessities needed to sustain the health of a*
29 *person, regardless of the length of the deprivation; or*
- 30 *13. The use of time out in another room in an emergency.*

31 **Sec. 57.** *"Chemical restraint" means the administration of drugs for*
32 *the specific and exclusive purpose of controlling an acute or episodic*
33 *aggressive behavior when alternative intervention techniques have failed*
34 *to limit or control the behavior. The term does not include the*
35 *administration of drugs on a regular basis, as prescribed by a physician,*
36 *to treat the symptoms of mental, physical, emotional or behavioral*
37 *disorders and for assisting a person in gaining self-control over his*
38 *impulses.*

39 **Sec. 58.** *"Corporal punishment" means the intentional infliction of*
40 *physical pain, including, without limitation, hitting, pinching or striking.*

41 **Sec. 59.** *"Electric shock" means the application of electric current*
42 *to a person's skin or body.*

1 **Sec. 60.** *“Emergency” means a situation in which immediate*
2 *intervention is necessary to protect the physical safety of a person or*
3 *others from an immediate threat of physical injury or to protect against*
4 *an immediate threat of severe property damage.*

5 **Sec. 61.** *“Exclusionary time out” means the removal of a person*
6 *from an ongoing activity to a location where the person cannot observe*
7 *the activity.*

8 **Sec. 62.** *“Individualized education program” has the meaning*
9 *ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

10 **Sec. 63.** *“Individualized education program team” has the meaning*
11 *ascribed to it in 20 U.S.C. § 1414(d)(1)(B).*

12 **Sec. 64.** *“Mechanical restraint” means the use of devices, including,*
13 *without limitation, mittens, straps and restraint chairs to limit a person’s*
14 *movement or hold a person immobile.*

15 **Sec. 65.** *“Physical restraint” means the use of physical contact to*
16 *limit a person’s movement or hold a person immobile.*

17 **Sec. 66.** *“Pupil with a disability” has the meaning ascribed to it in*
18 *NRS 388.440.*

19 **Sec. 67.** *“Seclusion” means the placement of a person alone in a*
20 *room where release from the room is prohibited by a mechanism,*
21 *including, without limitation, a lock, device or object positioned to hold*
22 *the door closed or otherwise prevent the person from leaving the room.*
23 *The term does not include exclusionary time out or time out in another*
24 *room.*

25 **Sec. 68.** *“Time out in another room” means the removal of a person*
26 *from an ongoing activity to an unlocked room where the door to the*
27 *room is held shut by another person or by a mechanism that requires the*
28 *constant physical pressure of another person to keep the mechanism*
29 *engaged. The term is equivalent to the term “time-out room” as referred*
30 *to in 42 C.F.R. § 483.450.*

31 **Sec. 69.** *“Verbal and mental abuse” means actions or utterances*
32 *that cause mental distress including, without limitation, the use of*
33 *obscene gestures and words to frighten, humiliate, intimidate, threaten or*
34 *insult.*

35 **Sec. 70.** *A person employed by a private school or any other person*
36 *shall not use any aversive intervention on a pupil with a disability.*

37 **Sec. 71.** *A person employed by a private school or any other person*
38 *shall not:*

39 1. *Except as otherwise provided in section 72 of this act, place a*
40 *pupil with a disability on exclusionary time out or time out in another*
41 *room.*

42 2. *Except as otherwise provided in section 73 of this act, use physical*
43 *restraint on a pupil with a disability.*

1 3. Except as otherwise provided in section 74 of this act, use
2 mechanical restraint on a pupil with a disability.

3 Sec. 72. 1. A pupil with a disability may be placed on exclusionary
4 time out or time out in another room if:

5 (a) The use of the procedure is:

6 (1) Based upon a need identified in the pupil's service plan
7 developed pursuant to 34 C.F.R. § 300.455 or the pupil's individualized
8 education program, whichever is appropriate; and

9 (2) Included in the pupil's service plan developed pursuant to 34
10 C.F.R. § 300.455 or the pupil's individualized education program,
11 whichever is appropriate;

12 (b) Before the procedure is used, the parent or guardian of the pupil
13 provides his informed consent, as set forth in 34 C.F.R. § 300.500;

14 (c) The procedure is carried out in accordance with the pupil's service
15 plan developed pursuant to 34 C.F.R. § 300.455 or the pupil's
16 individualized education program, whichever is appropriate;

17 (d) The procedure is the lowest level of intrusiveness required to
18 influence the behavior of the pupil and is not excessively intrusive in
19 relation to that behavior;

20 (e) The use of the procedure is supported by documentation in the
21 pupil's record that indicates:

22 (1) Less intrusive procedures have been tried on the pupil but have
23 failed to change the inappropriate behavior of the pupil;

24 (2) The length of time the less intrusive procedures were used; and

25 (3) The possible reasons why the less intrusive procedures failed;

26 (f) The procedure is carried out and continuously monitored by
27 members of the staff of the private school who are qualified and trained
28 in the proper application of the procedure;

29 (g) The pupil is protected from hazardous conditions;

30 (h) Except as otherwise provided in paragraph (l), the release of the
31 pupil from time out is contingent upon whether the pupil stops or
32 controls the behavior that precipitated the use of time out;

33 (i) The staff who are responsible for monitoring the pupil attempt to
34 return the pupil to the activity from which he was removed at least every
35 30 minutes, regardless of whether the pupil stops or controls the behavior
36 that precipitated the use of time out;

37 (j) The pupil is offered access to a toilet and water at least every 30
38 minutes;

39 (k) The pupil is released from time out immediately if he stops or
40 controls the behavior that precipitated the time out and is returned to the
41 activity from which he was removed, if possible; and

42 (l) Placement of the pupil on time out does not exceed 60 consecutive
43 minutes after the initiation of the time out.

1 2. *The private school shall maintain a record of each time that a*
2 *pupil with a disability is placed on time out.*

3 **Sec. 73.** 1. *Except as otherwise provided in subsection 2, physical*
4 *restraint may be used on a pupil with a disability only if:*

5 (a) *An emergency exists that necessitates the use of physical restraint;*

6 (b) *The physical restraint is used only for the period that is necessary*
7 *to contain the behavior of the pupil so that the pupil is no longer an*
8 *immediate threat to himself or others; and*

9 (c) *The use of force in the application of physical restraint does not*
10 *exceed the force that is reasonable and necessary under the*
11 *circumstances precipitating the use of physical restraint.*

12 2. *Physical restraint may be used on a pupil with a disability and the*
13 *provisions of subsection 1 do not apply if the physical restraint is used to:*

14 (a) *Assist the pupil in completing a task or response if the pupil does*
15 *not resist the application of physical restraint or if his resistance is*
16 *minimal in intensity and duration;*

17 (b) *Escort or carry a pupil to safety if the pupil is in danger in his*
18 *present location; or*

19 (c) *Conduct medical examinations or treatments on the pupil that are*
20 *necessary.*

21 3. *If physical restraint is used on a pupil with a disability in an*
22 *emergency, the use of the procedure must be reported in the pupil's*
23 *cumulative record not later than 1 working day after the procedure is*
24 *used. A copy of the report must be provided to the superintendent, the*
25 *pupil's individualized education program team, if applicable, and the*
26 *parent or guardian of the pupil.*

27 **Sec. 74.** 1. *Except as otherwise provided in subsection 2,*
28 *mechanical restraint may be used on a pupil with a disability only if:*

29 (a) *An emergency exists that necessitates the use of mechanical*
30 *restraint;*

31 (b) *A medical order authorizing the use of mechanical restraint is*
32 *obtained from the pupil's treating physician before the application of the*
33 *mechanical restraint or not later than 15 minutes after the application of*
34 *the mechanical restraint;*

35 (c) *The physician who signed the order required pursuant to*
36 *paragraph (b) examines the pupil on the working day immediately after*
37 *the application of the mechanical restraint;*

38 (d) *The mechanical restraint is applied by a member of the staff of the*
39 *private school who is trained and qualified to apply mechanical restraint;*

40 (e) *The pupil is released from the mechanical restraint to move and*
41 *exercise the parts of his body that are restrained at least 10 minutes per*
42 *every 60 minutes of restraint;*

1 (f) A member of the staff of the private school lessens or discontinues
2 the restraint every 15 minutes to determine whether the pupil will stop or
3 control his inappropriate behavior without the use of the restraint;

4 (g) The record of the pupil contains a notation that includes the time
5 of day that the restraint was lessened or discontinued pursuant to
6 paragraph (f) and the response of the pupil; and

7 (h) The pupil is released from the mechanical restraint as soon as his
8 behavior no longer presents an immediate threat to himself or others.

9 2. Mechanical restraint may be used on a pupil with a disability and
10 the provisions of subsection 1 do not apply if the mechanical restraint is
11 used to:

12 (a) Treat the medical needs of the pupil;

13 (b) Protect a pupil who is known to be at risk of injury to himself
14 because he lacks coordination or suffers from frequent loss of
15 consciousness; or

16 (c) Position a pupil who has physical disabilities in a manner
17 prescribed in the pupil's service plan developed pursuant to 34 C.F.R. §
18 300.455 or the pupil's individualized education program, whichever is
19 appropriate.

20 3. If mechanical restraint is used on a pupil with a disability in an
21 emergency, the use of the procedure must be reported in the pupil's
22 cumulative record not later than 1 working day after the procedure is
23 used. A copy of the report must be provided to the administrator of the
24 private school, the superintendent, the pupil's individualized education
25 program team, if applicable, and the parent or guardian of the pupil.

26 **Sec. 75. 1.** If a private school provides instruction to pupils with
27 disabilities, the school shall develop a program of education for the
28 members of the staff of the school who provide services to pupils with
29 disabilities. The program of education must provide instruction in
30 positive behavioral interventions and positive behavioral supports that:

31 (a) Includes positive methods to modify the environment of pupils
32 with disabilities to promote adaptive behavior and reduce the occurrence
33 of inappropriate behavior;

34 (b) Includes methods to teach skills to pupils with disabilities so that
35 the pupils can replace inappropriate behavior with adaptive behavior;

36 (c) Includes methods to enhance the independence and quality of life
37 for pupils with disabilities;

38 (d) Includes the use of the least intrusive methods to respond to and
39 reinforce the behavior of pupils with disabilities; and

40 (e) Offers a process for designing interventions based upon the pupil
41 that are focused on promoting appropriate changes in behavior as well as
42 enhancing the overall quality of life for the pupil.

1 2. *If a private school provides instruction to pupils with disabilities,*
2 *the school shall provide appropriate training for the members of the staff*
3 *of the school who are authorized to carry out and monitor exclusionary*
4 *time out, time out in another room, physical restraint and mechanical*
5 *restraint to ensure that those members of the staff are competent and*
6 *qualified to carry out the procedures in accordance with sections 55 to*
7 *79, inclusive, of this act.*

8 **Sec. 76.** 1. *Unless a more severe penalty is prescribed by specific*
9 *statute, a person who willfully uses aversive intervention on a pupil with*
10 *a disability or violates section 71 of this act:*

11 (a) *For a first violation that does not result in substantial bodily harm*
12 *to the pupil, is guilty of a gross misdemeanor.*

13 (b) *For a first violation that results in substantial bodily harm to the*
14 *pupil, is guilty of a category B felony.*

15 (c) *For a second or subsequent violation, is guilty of a category B*
16 *felony.*

17 *A person who is convicted of a category B felony pursuant to this section*
18 *shall be punished by imprisonment in the state prison for a minimum*
19 *term of not less than 1 year and a maximum term of not more than 6*
20 *years, or by a fine of not more than \$5,000, or by both fine and*
21 *imprisonment.*

22 2. *A person who is convicted pursuant to this section is ineligible for*
23 *5 years for employment with a private school.*

24 3. *A conviction pursuant to this section is grounds for disciplinary*
25 *action against the person so convicted and the private school where the*
26 *violation occurred. The superintendent may take appropriate action to*
27 *cause the suspension or revocation of the professional license,*
28 *registration, certificate or permit of a person convicted.*

29 **Sec. 77.** 1. *A private school where a violation of sections 55 to 79,*
30 *inclusive, of this act occurs shall report the violation to the*
31 *superintendent not later than 24 hours after the violation occurred, or as*
32 *soon thereafter as the violation is discovered.*

33 2. *The private school where a violation occurred shall develop, in*
34 *cooperation with the superintendent, a corrective plan to ensure that*
35 *within 30 calendar days after the violation occurred, appropriate action*
36 *is taken by the private school to prevent future violations.*

37 3. *The superintendent shall submit the plan to the department. The*
38 *department shall review the plan to ensure that it complies with*
39 *applicable federal law and the statutes and regulations of this state. The*
40 *department may require appropriate revision of the plan to ensure*
41 *compliance.*

1 **Sec. 78.** *An officer, administrator or employee of a private school*
2 *shall not retaliate against any person for having:*

- 3 1. *Reported a violation of sections 55 to 79, inclusive, of this act; or*
4 2. *Provided information regarding a violation of sections 55 to 79,*
5 *inclusive, of this act,*
6 *by a private school or a member of the staff of the private school.*

7 **Sec. 79.** 1. *A denial of rights of a pupil with a disability pursuant*
8 *to sections 55 to 79, inclusive, of this act must be entered in the pupil's*
9 *cumulative record. Notice of the denial must be provided to the*
10 *administrator of the private school.*

11 2. *If the administrator of a private school receives notice of a denial*
12 *of rights pursuant to subsection 1, he shall cause a full report to be*
13 *prepared which must set forth in detail the factual circumstances*
14 *surrounding the denial. A copy of the report must be provided to the*
15 *superintendent.*

16 3. *The superintendent:*

- 17 (a) *Shall receive reports made pursuant to subsection 2;*
18 (b) *May investigate apparent violations of the rights of pupils with*
19 *disabilities; and*
20 (c) *May act to resolve disputes relating to apparent violations.*

21 **Sec. 80.** Chapter 449 of NRS is hereby amended by adding thereto the
22 provisions set forth as sections 81 to 105, inclusive, of this act.

23 **Sec. 81.** *As used in sections 81 to 105, inclusive, of this act unless*
24 *the context otherwise requires, the words and terms defined in sections*
25 *82 to 94, inclusive, of this act have the meanings ascribed to them in*
26 *those sections.*

27 **Sec. 82.** *“Aversive intervention” means:*

- 28 1. *The use of noxious odors and tastes;*
29 2. *The use of water and other mists or sprays;*
30 3. *The use of blasts of air;*
31 4. *The use of corporal punishment;*
32 5. *The use of verbal and mental abuse;*
33 6. *The use of electric shock;*
34 7. *The placement of a person in seclusion;*
35 8. *Requiring a person to obtain or maintain a physically painful*
36 *position, excluding physical restraint;*
37 9. *Requiring a person to perform exercise under forced conditions;*
38 10. *Any intervention, technique or procedure that deprives a person*
39 *of the use of one or more of his senses, regardless of the length of the*
40 *deprivation; or*

1 11. *The deprivation of necessities needed to sustain the health of a*
2 *person, regardless of the length of the deprivation. The term does not*
3 *include the withholding or withdrawal of life-sustaining treatment in*
4 *accordance with NRS 449.626.*

5 Sec. 83. *“Chemical restraint” means the administration of drugs for*
6 *the specific and exclusive purpose of controlling an acute or episodic*
7 *aggressive behavior when alternative intervention techniques have failed*
8 *to limit or control the behavior. The term does not include the*
9 *administration of drugs on a regular basis, as prescribed by a physician,*
10 *to treat the symptoms of mental, physical, emotional or behavioral*
11 *disorders and for assisting a person in gaining self-control over his*
12 *impulses.*

13 Sec. 84. *“Corporal punishment” means the intentional infliction of*
14 *physical pain, including, without limitation, hitting, pinching or striking.*

15 Sec. 85. *“Electric shock” means the application of electric current*
16 *to a person’s skin or body.*

17 Sec. 86. *“Emergency” means a situation in which immediate*
18 *intervention is necessary to protect the physical safety of a person or*
19 *others from an immediate threat of physical injury or to protect against*
20 *an immediate threat of severe property damage.*

21 Sec. 87. *“Exclusionary time out” means the removal of a person*
22 *from an ongoing activity to a location where the person cannot observe*
23 *the activity.*

24 Sec. 88. *“Facility” means a facility that is licensed pursuant to this*
25 *chapter.*

26 Sec. 89. *“Mechanical restraint” means the use of devices, including,*
27 *without limitation, mittens, straps and restraint chairs to limit a person’s*
28 *movement or hold a person immobile.*

29 Sec. 90. *“Person with a disability” means a person who:*
30 1. *Has a physical or mental impairment that substantially limits one*
31 *or more of the major life activities of the person;*
32 2. *Has a record of such an impairment; or*
33 3. *Is regarded as having such an impairment.*

34 Sec. 91. *“Physical restraint” means the use of physical contact to*
35 *limit a person’s movement or hold a person immobile.*

36 Sec. 92. *“Seclusion” means the placement of a person alone in a*
37 *room where release from the room is prohibited by a mechanism,*
38 *including, without limitation, a lock, device or object positioned to hold*
39 *the door closed or otherwise prevent the person from leaving the room.*
40 *The term does not include exclusionary time out or time out in another*
41 *room.*

1 **Sec. 93.** *“Time out in another room” means the removal of a person*
2 *from an ongoing activity to an unlocked room where the door to the*
3 *room is held shut by another person or by a mechanism that requires the*
4 *constant physical pressure of another person to keep the mechanism*
5 *engaged. The term is equivalent to the term “time-out room” as referred*
6 *to in 42 C.F.R. § 483.450.*

7 **Sec. 94.** *“Verbal and mental abuse” means actions or utterances*
8 *that cause mental distress including, without limitation, the use of*
9 *obscene gestures and words to frighten, humiliate, intimidate, threaten or*
10 *insult.*

11 **Sec. 95.** *A person employed by a facility licensed pursuant to this*
12 *chapter or any other person shall not use any aversive intervention on a*
13 *person with a disability who is a patient at the facility.*

14 **Sec. 96.** *A person employed by a facility licensed pursuant to this*
15 *chapter or any other person shall not:*

16 1. *Except as otherwise provided in section 97 of this act, place a*
17 *person with a disability who is a patient at the facility on exclusionary*
18 *time out or time out in another room.*

19 2. *Except as otherwise provided in section 98 of this act, use physical*
20 *restraint on a person with a disability who is a patient at the facility.*

21 3. *Except as otherwise provided in section 99 of this act, use*
22 *mechanical restraint on a person with a disability who is a patient at the*
23 *facility.*

24 4. *Except as otherwise provided in section 100 of this act, use*
25 *chemical restraint on a person with a disability who is a patient at the*
26 *facility.*

27 **Sec. 97.** 1. *A person with a disability who is a patient at a facility*
28 *may be placed on exclusionary time out or time out in another room if:*

29 (a) *The use of the procedure is:*

30 (1) *Based upon a need identified in the patient’s plan of treatment;*
31 *and*

32 (2) *Included in the patient’s plan of treatment, for which informed*
33 *consent has been obtained pursuant to subsections 3 and 4;*

34 (b) *The procedure is carried out in accordance with the patient’s plan*
35 *of treatment;*

36 (c) *The procedure is the lowest level of intrusiveness required to*
37 *influence the behavior of the patient and is not excessively intrusive in*
38 *relation to that behavior;*

39 (d) *The use of the procedure is supported by documentation in the*
40 *patient’s record that indicates:*

41 (1) *Less intrusive procedures have been tried on the patient but*
42 *have failed to change the inappropriate behavior of the patient;*

43 (2) *The length of time the less intrusive procedures were used; and*

1 (3) The possible reasons why the less intrusive procedures failed;

2 (e) The procedure is carried out and continuously monitored by
3 members of the staff of the facility who are qualified and trained in the
4 proper application of the procedure;

5 (f) The patient is protected from hazardous conditions;

6 (g) Except as otherwise provided in paragraph (k), the release of the
7 patient from time out is contingent upon whether the patient stops or
8 controls the behavior that precipitated the use of time out;

9 (h) The staff who are responsible for monitoring the patient attempt to
10 return the patient to the activity from which he was removed at least
11 every 30 minutes, regardless of whether the patient stops or controls the
12 behavior that precipitated the use of time out;

13 (i) The patient is offered access to a toilet and water at least every 30
14 minutes;

15 (j) The patient is released from time out immediately if he stops or
16 controls the behavior that precipitated the time out and is returned to the
17 activity from which he was removed, if possible; and

18 (k) Placement of the patient on time out does not exceed 60
19 consecutive minutes after the initiation of the time out.

20 2. A facility shall maintain a record of each time that a person with a
21 disability who is a patient at the facility is placed on time out.

22 3. Before exclusionary time out or time out in another room is
23 included in a patient's plan of treatment at a facility, the facility shall
24 obtain the written informed consent of:

25 (a) The patient if he is at least 18 years of age or legally emancipated
26 and competent to give that consent, and from his legal guardian, if any;

27 (b) The parent or guardian of the patient if the patient is under 18
28 years of age and not legally emancipated; or

29 (c) The legal guardian of a patient of any age who has been
30 adjudicated mentally incompetent.

31 The consent required by this subsection may be withdrawn in writing at
32 any time with or without cause.

33 4. An informed consent requires that the person whose consent is
34 sought is adequately informed of:

35 (a) The nature and consequences of the procedure;

36 (b) The reasonable risks, benefits and purposes of the procedure; and

37 (c) Alternative procedures available.

38 **Sec. 98.** 1. Except as otherwise provided in subsection 2, physical
39 restraint may be used on a patient with a disability who is a patient at a
40 facility only if:

41 (a) An emergency exists that necessitates the use of physical restraint;

1 ***(b) The physical restraint is used only for the period that is necessary***
2 ***to contain the behavior of the patient so that the patient is no longer an***
3 ***immediate threat to himself or others; and***

4 ***(c) The use of force in the application of physical restraint does not***
5 ***exceed the force that is reasonable and necessary under the***
6 ***circumstances precipitating the use of physical restraint.***

7 ***2. Physical restraint may be used on a person with a disability who is***
8 ***a patient at a facility and the provisions of subsection 1 do not apply if***
9 ***the physical restraint is used to:***

10 ***(a) Assist the patient in completing a task or response if the patient***
11 ***does not resist the application of physical restraint or if his resistance is***
12 ***minimal in intensity and duration;***

13 ***(b) Escort or carry a patient to safety if the patient is in danger in his***
14 ***present location; or***

15 ***(c) Conduct medical examinations or treatments on the patient that***
16 ***are necessary.***

17 ***3. If physical restraint is used on a patient in an emergency, the use***
18 ***of the procedure must be reported as a denial of rights pursuant to***
19 ***section 105 of this act, regardless of whether the use of the procedure is***
20 ***authorized by statute. The report must be made not later than 1 working***
21 ***day after the procedure is used.***

22 ***Sec. 99. 1. Except as otherwise provided in subsection 2,***
23 ***mechanical restraint may be used on a person with a disability who is a***
24 ***patient at a facility only if:***

25 ***(a) An emergency exists that necessitates the use of mechanical***
26 ***restraint;***

27 ***(b) A medical order authorizing the use of mechanical restraint is***
28 ***obtained from the patient's treating physician before the application of***
29 ***the mechanical restraint or not later than 15 minutes after the***
30 ***application of the mechanical restraint;***

31 ***(c) The physician who signed the order required pursuant to***
32 ***paragraph (b) examines the patient on the working day immediately after***
33 ***the application of the mechanical restraint;***

34 ***(d) The mechanical restraint is applied by a member of the staff of the***
35 ***facility who is trained and qualified to apply mechanical restraint;***

36 ***(e) The patient is released from the mechanical restraint to move and***
37 ***exercise the parts of his body that are restrained at least 10 minutes per***
38 ***every 60 minutes of restraint;***

39 ***(f) A member of the staff of the facility lessens or discontinues the***
40 ***restraint every 15 minutes to determine whether the patient will stop or***
41 ***control his inappropriate behavior without the use of the restraint;***

1 (g) *The record of the patient contains a notation that includes the time*
2 *of day that the restraint was lessened or discontinued pursuant to*
3 *paragraph (f) and the response of the patient; and*

4 (h) *The patient is released from the mechanical restraint as soon as*
5 *his behavior no longer presents an immediate threat to himself or others.*

6 2. *Mechanical restraint may be used on a person with a disability*
7 *who is a patient at a facility and the provisions of subsection 1 do not*
8 *apply if the mechanical restraint is used to:*

9 (a) *Treat the medical needs of a patient;*

10 (b) *Protect a patient who is known to be at risk of injury to himself*
11 *because he lacks coordination or suffers from frequent loss of*
12 *consciousness; or*

13 (c) *Position a patient who has physical disabilities in a manner*
14 *prescribed in the patient's plan of treatment.*

15 3. *If mechanical restraint is used on a patient in an emergency, the*
16 *use of the procedure must be reported as a denial of rights pursuant to*
17 *section 105 of this act, regardless of whether the use of the procedure is*
18 *authorized by statute. The report must be made not later than 1 working*
19 *day after the procedure is used.*

20 **Sec. 100.** 1. *Chemical restraint may only be administered to a*
21 *person with a disability who is a patient at an independent center for*
22 *emergency medical care. The chemical restraint must be administered in*
23 *accordance with section 19 of this act.*

24 2. *Each independent center for emergency medical care shall*
25 *provide appropriate training for the members of the staff of the center*
26 *who are authorized to administer chemical restraint to ensure that those*
27 *members of the staff are competent and qualified to carry out the*
28 *procedure in accordance with section 19 of this act.*

29 **Sec. 101.** 1. *Each facility shall develop a program of education for*
30 *the members of the staff of the facility to provide instruction in positive*
31 *behavioral interventions and positive behavioral supports that:*

32 (a) *Includes positive methods to modify the environment of patients to*
33 *promote adaptive behavior and reduce the occurrence of inappropriate*
34 *behavior;*

35 (b) *Includes methods to teach skills to patients so that patients can*
36 *replace inappropriate behavior with adaptive behavior;*

37 (c) *Includes methods to enhance a patient's independence and quality*
38 *of life;*

39 (d) *Includes the use of the least intrusive methods to respond to and*
40 *reinforce the behavior of patients; and*

41 (e) *Offers a process for designing interventions based upon the patient*
42 *that are focused on promoting appropriate changes in behavior as well as*
43 *enhancing the overall quality of life for the patient.*

1 2. Each facility shall provide appropriate training for the members of
2 the staff of the facility who are authorized to carry out and monitor
3 exclusionary time out, time out in another room, physical restraint and
4 mechanical restraint to ensure that those members of the staff are
5 competent and qualified to carry out the procedures in accordance with
6 sections 81 to 105, inclusive, of this act.

7 **Sec. 102.** 1. Unless a more severe penalty is prescribed by specific
8 statute, a person who willfully uses aversive intervention on a person with
9 a disability who is a patient at a facility or violates section 96 of this act:

10 (a) For a first violation that does not result in substantial bodily harm
11 to the person with a disability, is guilty of a gross misdemeanor.

12 (b) For a first violation that results in substantial bodily harm to the
13 person with a disability, is guilty of a category B felony.

14 (c) For a second or subsequent violation, is guilty of a category B
15 felony.

16 A person who is convicted of a category B felony pursuant to this section
17 shall be punished by imprisonment in the state prison for a minimum
18 term of not less than 1 year and a maximum term of not more than 6
19 years, or by a fine of not more than \$5,000, or by both fine and
20 imprisonment.

21 2. A person who is convicted pursuant to this section is ineligible for
22 5 years for employment with a facility.

23 3. A conviction pursuant to this section is, when applicable, grounds
24 for disciplinary action against the person so convicted and the facility
25 where the violation occurred. The health division may recommend to the
26 appropriate agency or board the suspension or revocation of the
27 professional license, registration, certificate or permit of a person
28 convicted.

29 **Sec. 103.** 1. A facility where a violation of the provisions of
30 sections 81 to 105, inclusive, of this act occurs shall report the violation
31 to the health division not later than 24 hours after the violation occurred,
32 or as soon thereafter as the violation is discovered.

33 2. A facility where a violation occurred shall develop, in cooperation
34 with the health division, a corrective plan to ensure that within 30
35 calendar days after the violation occurred, appropriate action is taken by
36 the facility to prevent future violations.

37 3. The health division shall forward the plan to the board. The board
38 shall review the plan to ensure that it complies with applicable federal
39 law and the statutes and regulations of this state. The board may require
40 appropriate revision of the plan to ensure compliance.

41 4. If the facility where the violation occurred does not meet the
42 requirements of the plan to the satisfaction of the board, the board may

1 *direct the agency that administers funding for the facility to withhold*
2 *state funding for the facility until the facility meets the requirements of*
3 *the plan.*

4 **Sec. 104.** *An officer, administrator or employee of a facility licensed*
5 *pursuant to this chapter shall not retaliate against any person for having:*

- 6 1. *Reported a violation of sections 81 to 105, inclusive, of this act; or*
7 2. *Provided information regarding a violation of sections 81 to 105,*
8 *inclusive, of this act,*
9 *by a facility or a member of the staff of the facility.*

10 **Sec. 105.** 1. *A denial of rights of a person with a disability who is a*
11 *patient of a facility pursuant to sections 81 to 105, inclusive, of this act*
12 *must be entered in the patient's record. Notice of the denial must be*
13 *provided to the administrator of the facility.*

14 2. *If the administrator of a facility receives notice of a denial of*
15 *rights pursuant to subsection 1, he shall cause a full report to be*
16 *prepared which must set forth in detail the factual circumstances*
17 *surrounding the denial. A copy of the report must be provided to the*
18 *health division.*

19 3. *The health division:*

- 20 (a) *Shall receive reports made pursuant to subsection 2;*
21 (b) *May investigate apparent violations of the rights of persons with*
22 *disabilities who are patients at facilities; and*
23 (c) *May act to resolve disputes relating to apparent violations.*

24 **Sec. 106.** NRS 449.730 is hereby amended to read as follows:

25 449.730 1. Every medical facility and facility for the dependent shall
26 inform each patient or his legal representative, upon his admission to the
27 facility, of the patient's rights as listed in NRS 449.700, 449.710 and
28 449.720.

29 2. *In addition to the requirements of subsection 1, if a person with a*
30 *disability is a patient at a medical facility or facility for the dependent,*
31 *the facility shall inform the patient of his rights pursuant to sections 81*
32 *to 105, inclusive, of this act.*

33 **Sec. 107.** NRS 449.850 is hereby amended to read as follows:

34 449.850 1. The attorney in fact may not consent to:

- 35 (a) Commitment or placement of the principal in a facility for treatment
36 of mental illness;
37 (b) Convulsive treatment;
38 (c) Psychosurgery;
39 (d) Sterilization;
40 (e) Abortion; ~~for~~
41 (f) *Aversive intervention, as that term is defined in section 82 of this*
42 *act;*

or

1 **(g)** Any other treatment to which the principal, in the power of attorney,
2 states that the attorney in fact may not consent.

3 2. The attorney in fact must make decisions concerning the use or
4 nonuse of life sustaining treatment which conform to the known desires of
5 the principal. The principal may make these desires known in the power of
6 attorney.

7 **Sec. 108.** The amendatory provisions of this act do not apply to
8 offenses that were committed before October 1, 1999.

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