

ASSEMBLY BILL NO. 453—ASSEMBLYWOMAN GIUNCHIGLIANI

MARCH 19, 2001

Referred to Concurrent Committees on Judiciary  
and Ways and Means

SUMMARY—Authorizes medical use of marijuana in certain circumstances and revises penalties for possessing marijuana. (BDR 40-121)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; authorizing the medical use of marijuana in certain circumstances; revising the penalties for possessing marijuana; making appropriations for the continuation of certain court programs of treatment for the abuse of alcohol or drugs; and providing other matters properly relating thereto.

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

- 1     **Section 1.** Title 40 of NRS is hereby amended by adding thereto a  
2     new chapter to consist of the provisions set forth as sections 2 to 33,  
3     inclusive, of this act.  
4     **Sec. 2.** *As used in this chapter, unless the context otherwise*  
5     *requires, the words and terms defined in sections 3 to 16, inclusive, of*  
6     *this act have the meanings ascribed to them in those sections.*  
7     **Sec. 3.** *“Administer” has the meaning ascribed to it in NRS 453.021.*  
8     **Sec. 4.** *“Attending physician” means a physician who:*  
9     1. *Is licensed to practice medicine pursuant to the provisions of*  
10    *chapter 630 of NRS; and*  
11    2. *Has primary responsibility for the care and treatment of a person*  
12    *diagnosed with a chronic or debilitating medical condition.*  
13    **Sec. 5.** *“Cachexia” means general physical wasting and*  
14    *malnutrition associated with chronic disease.*  
15    **Sec. 6.** *“Chronic or debilitating medical condition” means:*  
16    1. *Acquired immune deficiency syndrome;*  
17    2. *Cancer;*  
18    3. *Glaucoma;*  
19    4. *A medical condition or treatment for a medical condition that*  
20    *produces, for a specific patient, one or more of the following:*



- 1 (a) Cachexia;  
2 (b) Persistent muscle spasms, including, without limitation, spasms  
3 caused by multiple sclerosis;  
4 (c) Seizures, including, without limitation, seizures caused by  
5 epilepsy;  
6 (d) Severe nausea; or  
7 (e) Severe pain; or  
8 5. Any other medical condition or treatment for a medical condition  
9 that is:  
10 (a) Classified as a chronic or debilitating medical condition by  
11 regulation of the division; or  
12 (b) Approved as a chronic or debilitating medical condition pursuant  
13 to a petition submitted in accordance with section 30 of this act.  
14 Sec. 7. "Deliver" or "delivery" has the meaning ascribed to it in  
15 NRS 453.051.  
16 Sec. 8. "Department" means the state department of agriculture.  
17 Sec. 9. 1. "Designated primary caregiver" means a person who:  
18 (a) Is 18 years of age or older;  
19 (b) Has significant responsibility for managing the well-being of a  
20 person diagnosed with a chronic or debilitating medical condition; and  
21 (c) Is designated as such in the manner required pursuant to section  
22 23 of this act.  
23 2. The term does not include the attending physician of a person  
24 diagnosed with a chronic or debilitating medical condition.  
25 Sec. 10. "Division" means the health division of the department of  
26 human resources.  
27 Sec. 11. "Drug paraphernalia" has the meaning ascribed to it in  
28 NRS 453.554.  
29 Sec. 12. "Marijuana" has the meaning ascribed to it in NRS  
30 453.096.  
31 Sec. 13. "Medical use of marijuana" means the possession or  
32 delivery of marijuana, or paraphernalia used to administer marijuana, as  
33 necessary for the exclusive benefit of a person to mitigate the symptoms  
34 or effects of his chronic or debilitating medical condition.  
35 Sec. 14. "Registry identification card" means a document issued by  
36 the department that identifies:  
37 1. A person who is authorized to engage in the medical use of  
38 marijuana; or  
39 2. The designated primary caregiver, if any, of a person described in  
40 subsection 1.  
41 Sec. 15. 1. "Usable marijuana" means the dried leaves and flowers  
42 of a plant of the genus Cannabis, and any mixture or preparation  
43 thereof, that are appropriate for medical use as allowed pursuant to the  
44 provisions of this chapter.  
45 2. The term does not include the seeds, stalks and roots of the plant.  
46 Sec. 16. "Written documentation" means:  
47 1. A statement signed by the attending physician of a person  
48 diagnosed with a chronic or debilitating medical condition; or



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1     2. *Copies of the relevant medical records of a person diagnosed with*  
2     *a chronic or debilitating medical condition.*

3     **Sec. 17.** 1. *Except as otherwise provided in sections 18, 24 and 31*  
4     *of this act, a person engaged in or assisting in the medical use of*  
5     *marijuana is exempt from state prosecution for:*

6         (a) *Possession or delivery of marijuana or drug paraphernalia;*

7         (b) *Aiding and abetting another in the possession or delivery of*  
8         *marijuana or drug paraphernalia; or*

9         (c) *Any other criminal offense in which possession or delivery of*  
10         *marijuana or drug paraphernalia is an element,*  
11         *if the person holds a registry identification card issued to him pursuant*  
12         *to section 20 or 23 of this act.*

13     2. *In addition to the provisions of subsection 1, no person may be*  
14     *prosecuted for constructive possession, conspiracy or any other criminal*  
15     *offense solely for being in the presence or vicinity of the medical use of*  
16     *marijuana as authorized pursuant to the provisions of this chapter.*

17     **Sec. 18.** 1. *A person who holds a registry identification card issued*  
18     *to him pursuant to paragraph (a) of subsection 1 of section 20 of this act*  
19     *may engage in, and the designated primary caregiver of such a person, if*  
20     *any, may assist in, the medical use of marijuana only as justified to*  
21     *mitigate the symptoms or effects of the person's chronic or debilitating*  
22     *medical condition. Except as otherwise provided in subsection 2, a*  
23     *person who possesses a registry identification card issued to him*  
24     *pursuant to paragraph (a) of subsection 1 of section 20 of this act and*  
25     *the designated primary caregiver of such a person, if any, may not*  
26     *collectively possess or deliver more than 2 ounces of usable marijuana.*

27     2. *If the persons described in subsection 1 possess or deliver*  
28     *marijuana in an amount which exceeds the amount allowed pursuant to*  
29     *that subsection, those persons:*

30         (a) *Are not exempt from state prosecution for possession or delivery of*  
31         *marijuana.*

32         (b) *May establish an affirmative defense to charges of possession or*  
33         *delivery of marijuana in the manner set forth in section 25 of this act.*

34     **Sec. 19.** 1. *The department shall establish and maintain a program*  
35     *for the issuance of registry identification cards to persons who meet the*  
36     *requirements of this section.*

37     2. *Except as otherwise provided in subsections 3 and 5, the*  
38     *department shall issue a registry identification card to a person who pays*  
39     *a fee in an amount established by the department, but not to exceed \$150,*  
40     *and submits an application on a form prescribed by the department*  
41     *accompanied by the following:*

42         (a) *Valid, written documentation from the person's attending*  
43         *physician stating that:*

44             (1) *The person has been diagnosed with a chronic or debilitating*  
45             *medical condition;*

46             (2) *The medical use of marijuana may mitigate the symptoms or*  
47             *effects of that condition; and*

48             (3) *The attending physician has explained the possible risks and*  
49             *benefits of the medical use of marijuana;*



- 1     (b) The name, address, telephone number, photograph, social security  
2     number and date of birth of the person;
- 3     (c) The name, address and telephone number of the person's  
4     attending physician; and
- 5     (d) If the person elects to designate a primary caregiver at the time of  
6     application:
- 7         (1) The name, address, telephone number, photograph and social  
8         security number of the designated primary caregiver; and
- 9         (2) A written, signed statement from his attending physician in  
10        which the attending physician approves of the designation of the primary  
11        caregiver.
- 12     The department is not prohibited from imposing an additional fee for the  
13     issuance of a registry identification card to a designated primary  
14     caregiver.
- 15     3. The department shall issue a registry identification card to a  
16     person who is under 18 years of age if:
- 17         (a) The person pays the fee and submits the materials required  
18         pursuant to subsection 2; and
- 19         (b) The custodial parent or legal guardian with responsibility for  
20         health care decisions for the person under 18 years of age signs a written  
21         statement setting forth that:
- 22             (1) The attending physician of the person under 18 years of age has  
23             explained to that person and to the custodial parent or legal guardian  
24             with responsibility for health care decisions for the person under 18  
25             years of age the possible risks and benefits of the medical use of  
26             marijuana;
- 27             (2) The custodial parent or legal guardian with responsibility for  
28             health care decisions for the person under 18 years of age consents to the  
29             use of marijuana by the person under 18 years of age for medical  
30             purposes;
- 31             (3) The custodial parent or legal guardian with responsibility for  
32             health care decisions for the person under 18 years of age agrees to serve  
33             as the designated primary caregiver for the person under 18 years of age;  
34             and
- 35             (4) The custodial parent or legal guardian with responsibility for  
36             health care decisions for the person under 18 years of age agrees to  
37             control the acquisition of marijuana and the dosage and frequency of use  
38             by the person under 18 years of age.
- 39     4. The form prescribed by the department to be used by a person  
40     applying for a registry identification card pursuant to this section must  
41     be a form that is in quintuplicate. Upon receipt of an application that is  
42     completed and submitted pursuant to this section, the department shall:
- 43         (a) Record on the application the date on which it was received;
- 44         (b) Retain one copy of the application for the records of the  
45         department; and
- 46         (c) Distribute the other four copies of the application in the following  
47         manner:
- 48             (1) One copy to the person who submitted the application;



- 1       (2) One copy to the applicant's designated primary caregiver, if  
2 any;  
3       (3) One copy to the central repository for Nevada records of  
4 criminal history; and  
5       (4) One copy to the board of medical examiners.  
6       5. The department shall verify the information contained in an  
7 application submitted pursuant to this section and shall approve or deny  
8 an application within 30 days after receiving the application. The  
9 department may contact an applicant, his attending physician and  
10 designated primary caregiver, if any, by telephone to determine that the  
11 information provided on or accompanying the application is accurate.  
12 The department may deny an application only on the following grounds:  
13       (a) The applicant failed to provide the information required pursuant  
14 to subsections 2 and 3 to:  
15           (1) Establish his chronic or debilitating medical condition; or  
16           (2) Document his consultation with an attending physician  
17 regarding the medical use of marijuana in connection with that  
18 condition;  
19       (b) The applicant failed to comply with regulations adopted by the  
20 department, including, without limitation, the regulations adopted by the  
21 director pursuant to section 32 of this act;  
22       (c) The department determines that the information provided by the  
23 applicant was falsified;  
24       (d) The department determines that the attending physician of the  
25 applicant is not licensed to practice medicine in this state or is not in  
26 good standing, as reported by the board of medical examiners;  
27       (e) The department determines that the applicant, or his designated  
28 primary caregiver, if applicable, has been convicted of knowingly or  
29 intentionally selling a controlled substance;  
30       (f) The department has prohibited the applicant from obtaining or  
31 using a registry identification card pursuant to subsection 2 of section 24  
32 of this act; or  
33       (g) In the case of a person under 18 years of age, the custodial parent  
34 or legal guardian with responsibility for health care decisions for the  
35 person has not signed the written statement required pursuant to  
36 paragraph (b) of subsection 3.  
37       6. The decision of the department to deny an application for a  
38 registry identification card is a final decision for the purposes of judicial  
39 review. Only the person whose application has been denied or, in the  
40 case of a person under 18 years of age whose application has been  
41 denied, the person's parent or legal guardian, has standing to contest the  
42 determination of the department. A judicial review authorized pursuant  
43 to this subsection must be limited to a determination of whether the  
44 denial was arbitrary, capricious or otherwise characterized by an abuse  
45 of discretion and must be conducted in accordance with the procedures  
46 set forth in chapter 233B of NRS for reviewing a final decision of an  
47 agency.



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1     7. A person whose application has been denied may not reapply for 6  
2 months after the date of the denial, unless the department or a court of  
3 competent jurisdiction authorizes reapplication in a shorter time.

4     8. Except as otherwise provided in this subsection, if a person has  
5 applied for a registry identification card pursuant to this section and the  
6 department has not yet approved or denied the application, the person,  
7 and his designated primary caregiver, if any, shall be deemed to hold a  
8 registry identification card upon the presentation to a law enforcement  
9 officer of the copy of the application provided to him pursuant to  
10 subsection 4. A person may not be deemed to hold a registry  
11 identification card for a period of more than 30 days after the date on  
12 which the department received the application.

13     **Sec. 20.** 1. If the department approves an application pursuant to  
14 subsection 5 of section 19 of this act, the department shall, as soon as  
15 practicable after approving the application:

16     (a) Issue a serially numbered registry identification card to the  
17 applicant; and

18     (b) If the applicant has designated a primary caregiver, issue a serially  
19 numbered registry identification card to the designated primary  
20 caregiver.

21     2. A registry identification card issued pursuant to paragraph (a) of  
22 subsection 1 must set forth:

23     (a) The name, address, photograph and date of birth of the applicant;

24     (b) The date of issuance and date of expiration of the registry  
25 identification card;

26     (c) The name and address of the applicant's designated primary  
27 caregiver, if any; and

28     (d) Any other information prescribed by regulation of the department.

29     3. A registry identification card issued pursuant to paragraph (b) of  
30 subsection 1 must set forth:

31     (a) The name, address and photograph of the designated primary  
32 caregiver;

33     (b) The date of issuance and date of expiration of the registry  
34 identification card;

35     (c) The name and address of the applicant for whom the person is the  
36 designated primary caregiver; and

37     (d) Any other information prescribed by regulation of the department.

38     4. A registry identification card issued pursuant to this section is  
39 valid for a period of 1 year and may be renewed in accordance with  
40 regulations adopted by the department.

41     **Sec. 21.** 1. A person to whom the department has issued a registry  
42 identification card pursuant to paragraph (a) of subsection 1 of section  
43 20 of this act shall, in accordance with regulations adopted by the  
44 department:

45     (a) Notify the department of any change in his name, address,  
46 telephone number, attending physician or designated primary caregiver,  
47 if any; and

48     (b) Submit annually to the department:



1       (1) Updated written documentation from his attending physician in  
2       which the attending physician sets forth that:  
3       (I) The person continues to suffer from a chronic or debilitating  
4       medical condition;  
5       (II) The medical use of marijuana may mitigate the symptoms or  
6       effects of that condition; and  
7       (III) He has explained to the person the possible risks and  
8       benefits of the medical use of marijuana;  
9       (2) If he elects to designate a primary caregiver for the subsequent  
10      year and the primary caregiver so designated was not the person's  
11      designated primary caregiver during the previous year:  
12      (I) The name, address, telephone number, photograph and social  
13      security number of the designated primary caregiver; and  
14      (II) A written, signed statement from his attending physician in  
15      which the attending physician approves of the designation of the primary  
16      caregiver; and  
17      (3) The fee, not to exceed \$100, for renewing his registry  
18      identification card, as established pursuant to the regulations of the  
19      department.  
20      2. A person to whom the department has issued a registry  
21      identification card pursuant to paragraph (b) of subsection 1 of section  
22      20 of this act or pursuant to section 23 of this act shall, in accordance  
23      with regulations adopted by the department:  
24      (a) Notify the department of any change in his name, address,  
25      telephone number or the identity of the person for whom he acts as  
26      designated primary caregiver; and  
27      (b) Submit annually to the department the fee, not to exceed \$100, for  
28      renewing his registry identification card, as established pursuant to the  
29      regulations of the department.  
30      3. If a person fails to comply with the provisions of subsection 1 or 2,  
31      the registry identification card issued to him shall be deemed expired. If  
32      the registry identification card of a person to whom the department  
33      issued the card pursuant to paragraph (a) of subsection 1 of section 20 of  
34      this act is deemed expired pursuant to this subsection, a registry  
35      identification card issued to the person's designated primary caregiver, if  
36      any, shall also be deemed expired.  
37      Sec. 22. If a person to whom the department has issued a registry  
38      identification card pursuant to paragraph (a) of subsection 1 of section  
39      20 of this act is diagnosed by his attending physician as no longer having  
40      a chronic or debilitating medical condition, the person and his  
41      designated primary caregiver, if any, shall return their registry  
42      identification cards to the department within 7 days after notification of  
43      the diagnosis.  
44      Sec. 23. 1. If a person who applies to the department for a registry  
45      identification card or to whom the department has issued a registry  
46      identification card pursuant to paragraph (a) of subsection 1 of section  
47      20 of this act desires to designate a primary caregiver, the person must:  
48      (a) To designate a primary caregiver at the time of application, submit  
49      to the department the fee required pursuant to subsection 2 of section 19



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1 of this act and the information required pursuant to paragraph (d) of  
2 that subsection; or

3 (b) To designate a primary caregiver after the department has issued a  
4 registry identification card to him, submit to the department the fee  
5 required pursuant to subsection 2 of section 19 of this act and the  
6 information required pursuant to subparagraph (2) of paragraph (b) of  
7 subsection 1 of section 21 of this act.

8 2. A person may have only one designated primary caregiver at any  
9 one time.

10 3. If a person designates a primary caregiver after the time that he  
11 initially applies for a registry identification card, the department shall,  
12 except as otherwise provided in subsection 5 of section 19 of this act,  
13 issue a registry identification card to the designated primary caregiver  
14 within 5 days after receiving the information submitted pursuant to  
15 paragraph (b) of subsection 1.

16 **Sec. 24.** 1. A person who is authorized to possess or deliver  
17 marijuana or drug paraphernalia to engage or assist in the medical use  
18 of marijuana pursuant to the provisions of this chapter is not exempt  
19 from state prosecution for, nor may he use his authorization to possess or  
20 deliver marijuana or drug paraphernalia for medical use to establish an  
21 affirmative defense to charges arising from, any of the following acts:

22 (a) Driving, operating or being in actual physical control of a vehicle  
23 or a vessel under power or sail while under the influence of marijuana.

24 (b) Engaging in any other conduct prohibited by NRS 484.379,  
25 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or  
26 493.130.

27 (c) Possessing a firearm in violation of paragraph (b) of subsection 1  
28 of NRS 202.257.

29 (d) Possessing marijuana in violation of NRS 453.336 or possessing  
30 drug paraphernalia in violation of NRS 453.560 or 453.566, if the  
31 possession of the marijuana or drug paraphernalia is discovered because  
32 the person engaged or assisted in the medical use of marijuana in:

33 (1) Any public place or in any place open to the public or exposed to  
34 public view; or

35 (2) Any local detention facility, county jail, state prison,  
36 reformatory or other correctional facility, including, without limitation,  
37 any facility for the detention of juvenile offenders.

38 (e) Delivering marijuana to another person who he knows does not  
39 lawfully hold a registry identification card issued by the department  
40 pursuant to section 20 or 23 of this act.

41 (f) Delivering marijuana for consideration to any person, regardless  
42 of whether the recipient lawfully holds a registry identification card  
43 issued by the department pursuant to section 20 or 23 of this act.

44 2. In addition to any other penalty provided by law, if the department  
45 determines that a person has willfully violated a provision of this chapter  
46 or any regulation adopted by the department or division to carry out the  
47 provisions of this chapter, the department may, at its own discretion,  
48 prohibit the person from obtaining or using a registry identification card  
49 for a period of up to 6 months.





- 1     *Sec. 25. 1. Except as otherwise provided in this section and*  
2     *sections 24 and 31 of this act, it is an affirmative defense to a criminal*  
3     *charge of possession or delivery of marijuana, or any other criminal*  
4     *offense in which possession or delivery of marijuana is an element, that*  
5     *the person charged with the offense:*
- 6     *(a) Is a person who:*  
7         *(1) Has been diagnosed with a chronic or debilitating medical*  
8         *condition within the 12-month period preceding his arrest and has been*  
9         *advised by his attending physician that the medical use of marijuana may*  
10        *mitigate the symptoms or effects of that chronic or debilitating medical*  
11        *condition;*  
12        *(2) Is engaged in the medical use of marijuana; and*  
13        *(3) Possesses or delivers marijuana only in the amount allowed*  
14        *pursuant to subsection 1 of section 18 of this act or in excess of that*  
15        *amount if the person proves by a preponderance of the evidence that the*  
16        *greater amount is medically necessary as determined by the person's*  
17        *attending physician to mitigate the symptoms or effects of the person's*  
18        *chronic or debilitating medical condition; or*
- 19     *(b) Is a person who:*  
20        *(1) Is assisting a person described in paragraph (a) in the medical*  
21        *use of marijuana; and*  
22        *(2) Possesses or delivers marijuana only in the amount allowed*  
23        *pursuant to subsection 1 of section 18 of this act or in excess of that*  
24        *amount if the person proves by a preponderance of the evidence that the*  
25        *greater amount is medically necessary as determined by the assisted*  
26        *person's attending physician to mitigate the symptoms or effects of the*  
27        *assisted person's chronic or debilitating medical condition.*
- 28     *2. A person need not hold a registry identification card issued to him*  
29     *by the department pursuant to section 20 or 23 of this act to assert the*  
30     *affirmative defense described in this section.*
- 31     *3. Except as otherwise provided in subsection 4, a person described*  
32     *in subsection 1 who is charged with a crime pertaining to the medical use*  
33     *of marijuana is not precluded from:*
- 34        *(a) Asserting a defense of medical necessity; or*  
35        *(b) Presenting evidence supporting the necessity of marijuana for*  
36        *treatment of a specific disease or medical condition,*  
37        *if the amount of marijuana at issue is not greater than the amount*  
38        *allowed pursuant to subsection 1 of section 18 of this act and the person*  
39        *has taken steps to comply substantially with the provisions of this*  
40        *chapter.*
- 41     *4. A defendant who intends to offer an affirmative defense described*  
42     *in this section shall, not less than 5 days before trial or at such other time*  
43     *as the court directs, file and serve upon the prosecuting attorney a*  
44     *written notice of his intent to claim the affirmative defense. The written*  
45     *notice must:*
- 46        *(a) State specifically why the defendant believes he is entitled to assert*  
47        *the affirmative defense; and*  
48        *(b) Set forth the factual basis for the affirmative defense.*



1 *A defendant who fails to provide notice of his intent to claim an*  
2 *affirmative defense as required pursuant to this subsection may not*  
3 *assert the affirmative defense at trial unless the court, for good cause*  
4 *shown, orders otherwise.*

5 **Sec. 26. 1.** *The fact that a person possesses a registry identification*  
6 *card issued to him by the department pursuant to section 20 or 23 of this*  
7 *act does not, alone:*

8 *(a) Constitute probable cause to search the person or his property; or*  
9 *(b) Subject the person or his property to inspection by any*  
10 *governmental agency.*

11 **2.** *If officers of a state or local law enforcement agency seize*  
12 *marijuana, drug paraphernalia or other property from a person engaged*  
13 *or assisting in the medical use of marijuana:*

14 *(a) The law enforcement agency shall ensure that the marijuana, drug*  
15 *paraphernalia or other property is not destroyed while in the possession*  
16 *of the law enforcement agency.*

17 *(b) Any property interest of the person from whom the marijuana,*  
18 *drug paraphernalia or other property was seized must not be forfeited*  
19 *pursuant to any provision of law providing for the forfeiture of property,*  
20 *except as part of a sentence imposed after conviction of a criminal*  
21 *offense.*

22 *(c) Upon a determination by the district attorney of the county in*  
23 *which the marijuana, drug paraphernalia or other property was seized,*  
24 *or his designee, that the person from whom the marijuana, drug*  
25 *paraphernalia or other property was seized is entitled to engage or assist*  
26 *in the medical use of marijuana pursuant to the provisions of this*  
27 *chapter, the law enforcement agency shall immediately return to that*  
28 *person any usable marijuana, drug paraphernalia or other property that*  
29 *was seized.*

30 **3.** *For the purposes of paragraph (c) of subsection 2, the*  
31 *determination of a district attorney or his designee that a person is*  
32 *entitled to engage in the medical use of marijuana shall be deemed to be*  
33 *evidenced by:*

34 *(a) A decision not to prosecute;*

35 *(b) The dismissal of charges; or*

36 *(c) Acquittal.*

37 **Sec. 27.** *The board of medical examiners shall not take any*  
38 *disciplinary action against an attending physician on the basis that the*  
39 *attending physician:*

40 **1.** *Advised a person whom the attending physician has diagnosed as*  
41 *having a chronic or debilitating medical condition, or a person whom the*  
42 *attending physician knows has been so diagnosed by another physician*  
43 *licensed to practice medicine pursuant to the provisions of chapter 630 of*  
44 *NRS:*

45 *(a) About the possible risks and benefits of the medical use of*  
46 *marijuana; or*

47 *(b) That the medical use of marijuana may mitigate the symptoms or*  
48 *effects of the person's chronic or debilitating medical condition,*



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1 *if the advice is based on the attending physician's personal assessment of*  
2 *the person's medical history and current medical condition.*

3 2. *Provided the written documentation required pursuant to*  
4 *paragraph (a) of subsection 2 of section 19 of this act for the issuance of*  
5 *a registry identification card or pursuant to subparagraph (1) of*  
6 *paragraph (b) of subsection 1 of section 21 of this act for the renewal of*  
7 *a registry identification card, if:*

8 (a) *Such documentation is based on the attending physician's*  
9 *personal assessment of the person's medical history and current medical*  
10 *condition; and*

11 (b) *The physician has advised the person about the possible risks and*  
12 *benefits of the medical use of marijuana.*

13 **Sec. 28.** *A professional licensing board shall not take any*  
14 *disciplinary action against a person licensed by the board on the basis*  
15 *that:*

16 1. *The person engages in or has engaged in the medical use of*  
17 *marijuana as authorized pursuant to the provisions of this chapter; or*

18 2. *The person acts as or has acted as the designated primary*  
19 *caregiver of a person who holds a registry identification card issued to*  
20 *him pursuant to paragraph (a) of subsection 1 of section 20 of this act.*

21 **Sec. 29.** 1. *Except as otherwise provided in this section and*  
22 *subsection 4 of section 19 of this act, the department shall maintain the*  
23 *confidentiality of and shall not disclose:*

24 (a) *The contents of any applications, records or other written*  
25 *documentation that the department creates or receives pursuant to the*  
26 *provisions of this chapter; or*

27 (b) *The name or any other identifying information of:*

28 (1) *An attending physician; or*

29 (2) *A person who has applied for or to whom the department has*  
30 *issued a registry identification card.*

31 2. *The department may release the name and other identifying*  
32 *information of a person to whom the department has issued a registry*  
33 *identification card to:*

34 (a) *Authorized employees of the department as necessary to perform*  
35 *official duties of the department; and*

36 (b) *Authorized employees of state and local law enforcement agencies,*  
37 *only as necessary to verify that a person is the lawful holder of a registry*  
38 *identification card issued to him pursuant to section 20 or 23 of this act.*

39 **Sec. 30.** 1. *A person may submit to the division a petition*  
40 *requesting that a particular disease or condition be included among the*  
41 *diseases and conditions that qualify as chronic or debilitating medical*  
42 *conditions pursuant to section 6 of this act.*

43 2. *The division shall adopt regulations setting forth the manner in*  
44 *which the division will accept and evaluate petitions submitted pursuant*  
45 *to this section. The regulations must provide, without limitation, that:*

46 (a) *The division will approve or deny a petition within 180 days after*  
47 *the division receives the petition;*



1     (b) If the division approves a petition, the division will, as soon as  
2     practicable thereafter, transmit to the department information  
3     concerning the disease or condition that the division has approved; and

4     (c) The decision of the division to deny a petition is a final decision for  
5     the purposes of judicial review.

6     **Sec. 31.** *The provisions of this chapter do not:*

7     1. *Require an insurer, organization for managed care or any person*  
8     *or entity who provides coverage for a medical or health care service to*  
9     *pay for or reimburse a person for costs associated with the medical use of*  
10    *marijuana.*

11    2. *Require any employer to accommodate the medical use of*  
12    *marijuana in the workplace.*

13    3. *Protect a person against state prosecution for any act involving the*  
14    *possession or delivery of marijuana or drug paraphernalia in a manner*  
15    *not authorized pursuant to the provisions of this chapter.*

16    **Sec. 32.** *The director of the department shall adopt such regulations*  
17    *as the director determines are necessary to carry out the provisions of*  
18    *this chapter. The regulations must set forth, without limitation:*

19    1. *The method pursuant to which a person who holds a registry*  
20    *identification card issued to him by the department pursuant to section*  
21    *20 or 23 of this act may obtain marijuana; and*

22    2. *The amount of each fee required pursuant to the provisions of this*  
23    *chapter.*

24    **Sec. 33.** *The state must not be held responsible for any deleterious*  
25    *outcomes from the medical use of marijuana by any person.*

26    **Sec. 34.** Chapter 453 of NRS is hereby amended by adding thereto the  
27    provisions set forth as sections 35 and 36 of this act.

28    **Sec. 35.** *The provisions of this chapter do not apply to the extent that*  
29    *they are inconsistent with the provisions of sections 2 to 33, inclusive, of*  
30    *this act.*

31    **Sec. 36.** 1. *A local authority may enact an ordinance adopting the*  
32    *penalties set forth for misdemeanors in NRS 453.336 for similar offenses*  
33    *under a local ordinance. The ordinance must set forth the manner in*  
34    *which money collected from fines imposed by a court for a violation of*  
35    *the ordinance must be disbursed in accordance with subsection 2.*

36    2. *Money collected from fines imposed by a court for a violation of*  
37    *an ordinance enacted pursuant to subsection 1 must be evenly allocated*  
38    *among:*

39    (a) *Nonprofit programs for the treatment of abuse of alcohol or drugs*  
40    *that are certified by the bureau of alcohol and drug abuse in the*  
41    *department of human resources;*

42    (b) *A program of treatment and rehabilitation established by a court*  
43    *pursuant to NRS 453.580, if any; and*

44    (c) *Local law enforcement agencies,*  
45    *in a manner determined by the court.*

46    3. *As used in this section, "local authority" means the governing*  
47    *board of a county, city or other political subdivision having authority to*  
48    *enact laws or ordinances.*



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**Sec. 37.** NRS 453.336 is hereby amended to read as follows:

1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician's assistant, dentist, podiatric physician, optometrist or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive ~~H~~, and sections 35 and 36 of this act.

2. Except as otherwise provided in subsections 3, 4 and 5 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

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

~~4. Unless a greater penalty is provided in NRS 212.160, a person who is less than 21 years of age and is convicted of the possession of less than 1 ounce of marijuana:~~

~~—(a) For the first and second offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~—(b) For a third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.~~

~~5. Before sentencing under the provisions of subsection 4 for a first offense, the court shall require the parole and probation officer to submit a presentencing report on the person convicted in accordance with the provisions of NRS 176A.200. After the report is received but before sentence is pronounced the court shall:~~

~~—(a) Interview the person convicted and make a determination as to the possibility of his rehabilitation; and~~

~~—(b) Conduct a hearing at which evidence may be presented as to the possibility of rehabilitation and any other relevant information.~~ Unless a



1 *greater penalty is provided pursuant to NRS 212.160, a person 18 years*  
2 *of age or older who is convicted of the possession of 1 ounce or less of*  
3 *marijuana:*

4 *(a) For the first offense, is guilty of a misdemeanor and shall be*  
5 *punished by a fine of not more than \$600.*

6 *(b) For the second offense, is guilty of a misdemeanor and shall be*  
7 *punished by a fine of not more than \$1,000 and assigned to a program of*  
8 *treatment and rehabilitation pursuant to NRS 453.580.*

9 *(c) For a third or subsequent offense, is guilty of a gross misdemeanor*  
10 *and shall be punished by a fine of not less than \$1,000 nor more than*  
11 *\$2,000.*

12 *5. Unless a greater penalty is provided pursuant to NRS 212.160, a*  
13 *child under 18 years of age who possesses 1 ounce or less of marijuana*  
14 *in violation of the provisions of subsection 1 commits a delinquent act*  
15 *and the court shall order the child:*

16 *(a) For the first offense, to pay a fine of not more than \$300, and*  
17 *require the child to undergo an evaluation pursuant to NRS 62.2275.*

18 *(b) For the second or subsequent offense, to pay a fine of not more*  
19 *than \$500, or to be detained in a facility for the detention of children for*  
20 *not more than 10 days, or both to pay a fine and be detained, and assign*  
21 *the child to an appropriate program for the treatment of abuse of alcohol*  
22 *or drugs.*

23 *If a child is unable to pay a fine imposed pursuant to this subsection*  
24 *because of financial hardship, the court shall order the child to perform*  
25 *community service.*

26 *6. As used in this section, "controlled substance" includes*  
27 *flunitrazepam, gamma-hydroxybutyrate and each substance for which*  
28 *flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.*

29 **Sec. 38.** NRS 453.3363 is hereby amended to read as follows:

30 453.3363 1. If a person who has not previously been convicted of  
31 any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to  
32 any statute of the United States or of any state relating to narcotic drugs,  
33 marijuana, or stimulant, depressant or hallucinogenic substances tenders a  
34 plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a  
35 charge pursuant to *subsection 2 or 3 of* NRS 453.336, *NRS* 453.411 or  
36 454.351, or is found guilty of one of those charges, the court, without  
37 entering a judgment of conviction and with the consent of the accused, may  
38 suspend further proceedings and place him on probation upon terms and  
39 conditions that must include attendance and successful completion of an  
40 educational program or, in the case of a person dependent upon drugs, of a  
41 program of treatment and rehabilitation pursuant to NRS 453.580.

42 2. Upon violation of a term or condition, the court may enter a  
43 judgment of conviction and proceed as provided in the section pursuant to  
44 which the accused was charged. Notwithstanding the provisions of  
45 paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or  
46 condition, the court may order the person to the custody of the department  
47 of prisons.

48 3. Upon fulfillment of the terms and conditions, the court shall  
49 discharge the accused and dismiss the proceedings against him. A



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1 nonpublic record of the dismissal must be transmitted to and retained by  
2 the division of parole and probation of the department of motor vehicles  
3 and public safety solely for the use of the courts in determining whether, in  
4 later proceedings, the person qualifies under this section.

5 4. Except as otherwise provided in subsection 5, discharge and  
6 dismissal under this section is without adjudication of guilt and is not a  
7 conviction for purposes of this section or for purposes of employment, civil  
8 rights or any statute or regulation or license or questionnaire or for any  
9 other public or private purpose, but is a conviction for the purpose of  
10 additional penalties imposed for second or subsequent convictions or the  
11 setting of bail. Discharge and dismissal restores the person discharged, in  
12 the contemplation of the law, to the status occupied before the arrest,  
13 indictment or information. He may not be held thereafter under any law to  
14 be guilty of perjury or otherwise giving a false statement by reason of  
15 failure to recite or acknowledge that arrest, indictment, information or trial  
16 in response to an inquiry made of him for any purpose. Discharge and  
17 dismissal under this section may occur only once with respect to any  
18 person.

19 5. A professional licensing board may consider a proceeding under this  
20 section in determining suitability for a license or liability to discipline for  
21 misconduct. Such a board is entitled for those purposes to a truthful answer  
22 from the applicant or licensee concerning any such proceeding with respect  
23 to him.

24 **Sec. 39.** NRS 453.401 is hereby amended to read as follows:

25 453.401 1. Except as otherwise provided in subsections 3 and 4, if  
26 two or more persons conspire to commit an offense which is a felony under  
27 the Uniform Controlled Substances Act or conspire to defraud the State of  
28 Nevada or an agency of the state in connection with its enforcement of the  
29 Uniform Controlled Substances Act, and one of the conspirators does an  
30 act in furtherance of the conspiracy, each conspirator:

31 (a) For a first offense, is guilty of a category C felony and shall be  
32 punished as provided in NRS 193.130.

33 (b) For a second offense, or if, in the case of a first conviction of  
34 violating this subsection, the conspirator has previously been convicted of  
35 a felony under the Uniform Controlled Substances Act or of an offense  
36 under the laws of the United States or of any state, territory or district  
37 which if committed in this state, would amount to a felony under the  
38 Uniform Controlled Substances Act, is guilty of a category B felony and  
39 shall be punished by imprisonment in the state prison for a minimum term  
40 of not less than 2 years and a maximum term of not more than 10 years,  
41 and may be further punished by a fine of not more than \$10,000.

42 (c) For a third or subsequent offense, or if the conspirator has  
43 previously been convicted two or more times of a felony under the  
44 Uniform Controlled Substances Act or of an offense under the laws of the  
45 United States or any state, territory or district which, if committed in this  
46 state, would amount to a felony under the Uniform Controlled Substances  
47 Act, is guilty of a category B felony and shall be punished by  
48 imprisonment in the state prison for a minimum term of not less than 3



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1 years and a maximum term of not more than 15 years, and may be further  
2 punished by a fine of not more than \$20,000 for each offense.

3 2. Except as otherwise provided in subsection 3, if two or more  
4 persons conspire to commit an offense in violation of the Uniform  
5 Controlled Substances Act and the offense does not constitute a felony, and  
6 one of the conspirators does an act in furtherance of the conspiracy, each  
7 conspirator shall be punished by imprisonment, or by imprisonment and  
8 fine, for not more than the maximum punishment provided for the offense  
9 which they conspired to commit.

10 3. If two or more persons conspire to possess *more than 1 ounce of*  
11 marijuana unlawfully, except for the purpose of sale, and one of the  
12 conspirators does an act in furtherance of the conspiracy, each conspirator  
13 is guilty of a gross misdemeanor.

14 4. If the conspiracy subjects the conspirators to criminal liability under  
15 NRS 207.400, the persons so conspiring shall be punished in the manner  
16 provided in NRS 207.400.

17 5. The court shall not grant probation to or suspend the sentence of a  
18 person convicted of violating this section and punishable pursuant to  
19 paragraph (b) or (c) of subsection 1.

20 **Sec. 40.** NRS 453.580 is hereby amended to read as follows:

21 453.580 1. A court may establish an appropriate treatment program  
22 to which it may assign a person pursuant to *subsection 4 of NRS 453.336,*  
23 NRS 453.3363 or 458.300 or it may assign such a person to an appropriate  
24 facility for the treatment of abuse of alcohol or drugs which is certified by  
25 the bureau of alcohol and drug abuse in the department of human  
26 resources. The assignment must include the terms and conditions for  
27 successful completion of the program and provide for progress reports at  
28 intervals set by the court to ensure that the person is making satisfactory  
29 progress towards completion of the program.

30 2. A program to which a court assigns a person pursuant to subsection  
31 1 must include:

32 (a) Information and encouragement for the participant to cease abusing  
33 alcohol or using controlled substances through educational, counseling and  
34 support sessions developed with the cooperation of various community,  
35 health, substance abuse, religious, social service and youth organizations;

36 (b) The opportunity for the participant to understand the medical,  
37 psychological and social implications of substance abuse; and

38 (c) Alternate courses within the program based on the different  
39 substances abused and the addictions of participants.

40 3. If the offense with which the person was charged involved the use  
41 or possession of a controlled substance, in addition to the program or as a  
42 part of the program the court must also require frequent urinalysis to  
43 determine that the person is not using a controlled substance. The court  
44 shall specify how frequent such examinations must be and how many must  
45 be successfully completed, independently of other requisites for successful  
46 completion of the program.

47 4. Before the court assigns a person to a program pursuant to this  
48 section, the person must agree to pay the cost of the program to which he is  
49 assigned and the cost of any additional supervision required pursuant to



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1 subsection 3, to the extent of his financial resources. If the person does not  
2 have the financial resources to pay all of the related costs, the court shall,  
3 to the extent practicable, arrange for the person to be assigned to a program  
4 at a facility that receives a sufficient amount of federal or state funding to  
5 offset the remainder of the costs.

6 **Sec. 41.** NRS 455B.080 is hereby amended to read as follows:

7 455B.080 1. A passenger shall not embark on an amusement ride  
8 while intoxicated or under the influence of a controlled substance, unless in  
9 accordance with ~~††~~ :

10 (a) A prescription lawfully issued to the person ~~††~~ ; or

11 (b) *The provisions of sections 2 to 33, inclusive, of this act.*

12 2. An authorized agent or employee of an operator may prohibit a  
13 passenger from boarding an amusement ride if he reasonably believes that  
14 the passenger is under the influence of alcohol, prescription drugs or a  
15 controlled substance. An agent or employee of an operator is not civilly or  
16 criminally liable for prohibiting a passenger from boarding an amusement  
17 ride pursuant to this subsection.

18 **Sec. 42.** NRS 52.395 is hereby amended to read as follows:

19 52.395 *Except as otherwise provided in section 26 of this act:*

20 1. When any substance alleged to be a controlled substance, dangerous  
21 drug or immediate precursor is seized from a defendant by a peace officer,  
22 the law enforcement agency of which the officer is a member may, with the  
23 prior approval of the prosecuting attorney, petition the district court in the  
24 county in which the defendant is charged to secure permission to destroy a  
25 part of the substance.

26 2. Upon receipt of a petition filed pursuant to subsection 1, the district  
27 court shall order the substance to be accurately weighed and the weight  
28 thereof accurately recorded. The prosecuting attorney or his representative  
29 and the defendant or his representative must be allowed to inspect and  
30 weigh the substance.

31 3. If after completion of the weighing process the defendant does not  
32 knowingly and voluntarily stipulate to the weight of the substance, the  
33 district court shall hold a hearing to make a judicial determination of the  
34 weight of the substance. The defendant, his attorney and any other witness  
35 the defendant may designate may be present and testify at the hearing.

36 4. After a determination has been made as to the weight of the  
37 substance, the district court may order all of the substance destroyed except  
38 that amount which is reasonably necessary to enable each interested party  
39 to analyze the substance to determine the composition of the substance.  
40 The district court shall order the remaining sample to be sealed and  
41 maintained for analysis before trial.

42 5. If the substance is finally determined not to be a controlled  
43 substance, dangerous drug or immediate precursor, unless the substance  
44 was destroyed pursuant to subsection 7, the owner may file a claim against  
45 the county to recover the reasonable value of the property destroyed  
46 pursuant to this section.

47 6. The district court's finding as to the weight of a substance destroyed  
48 pursuant to this section is admissible in any subsequent proceeding arising  
49 out of the same transaction.



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1 7. If at the time that a peace officer seizes from a defendant a  
2 substance believed to be a controlled substance, dangerous drug or  
3 immediate precursor, the peace officer discovers any material or substance  
4 that he reasonably believes is hazardous waste, the peace officer may  
5 appropriately dispose of the material or substance without securing the  
6 permission of a court.

7 8. As used in this section:

8 (a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

9 (b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

10 (c) "Immediate precursor" has the meaning ascribed to it in NRS  
11 453.086.

12 **Sec. 43.** NRS 62.211 is hereby amended to read as follows:

13 62.211 1. Except as otherwise provided in this chapter ~~H~~ and NRS  
14 453.336, if the court finds that a child is within the purview of this chapter,  
15 it shall so decree and may:

16 (a) Place the child under supervision in his own home or in the custody  
17 of a suitable person elsewhere, upon such conditions as the court may  
18 determine. A program of supervision in the home may include electronic  
19 surveillance of the child. The legislature declares that a program of  
20 supervision that includes electronic surveillance is intended as an  
21 alternative to commitment and not as an alternative to probation, informal  
22 supervision or a supervision and consent decree.

23 (b) Commit the child to the custody of a public or private institution or  
24 agency authorized to care for children, or place him in a home with a  
25 family. In committing a child to a private institution or agency the court  
26 shall select one that is required to be licensed by the department of human  
27 resources to care for such children, or, if the institution or agency is in  
28 another state, by the analogous department of that state. The court shall not  
29 commit a female child to a private institution without prior approval of the  
30 superintendent of the Caliente youth center, and shall not commit a male  
31 child to a private institution without prior approval of the superintendent of  
32 the Nevada youth training center.

33 (c) Order such medical, psychiatric, psychological or other care and  
34 treatment as the court deems to be for the best interests of the child, except  
35 as otherwise provided in this section.

36 (d) Order the parent, guardian, custodian or any other person to refrain  
37 from continuing the conduct which, in the opinion of the court, has caused  
38 or tended to cause the child to come within or remain under the provisions  
39 of this chapter.

40 (e) If the child is less than 18 years of age, order:

41 (1) The parent, guardian or custodian of the child; and

42 (2) Any brother, sister or other person who is living in the same  
43 household as the child over whom the court has jurisdiction,  
44 to attend or participate in counseling, with or without the child, including,  
45 but not limited to, counseling regarding parenting skills, alcohol or  
46 substance abuse, or techniques of dispute resolution.

47 (f) Order the parent or guardian of the child to participate in a program  
48 designed to provide restitution to the victim of an act committed by the  
49 child or to perform public service.



1 (g) Order the parent or guardian of the child to pay all or part of the cost  
2 of the proceedings, including, but not limited to, reasonable attorney's fees,  
3 any costs incurred by the court and any costs incurred in the investigation  
4 of an act committed by the child and the taking into custody of the child.

5 (h) Order the suspension of the child's driver's license for at least 90  
6 days but not more than 2 years. If the child does not possess a driver's  
7 license, the court may prohibit the child from receiving a driver's license  
8 for at least 90 days but not more than 2 years:

9 (1) Immediately following the date of the order, if the child is eligible  
10 to receive a driver's license.

11 (2) After the date he becomes eligible to apply for a driver's license,  
12 if the child is not eligible to receive a license on the date of  
13 the order.

14 If the court issues an order suspending the driver's license of a child  
15 pursuant to this paragraph, the judge shall require the child to surrender to  
16 the court all driver's licenses then held by the child. The court shall, within  
17 5 days after issuing the order, forward to the department of motor vehicles  
18 and public safety the licenses, together with a copy of the order. If,  
19 pursuant to this paragraph, the court issues an order delaying the ability of  
20 a child to receive a driver's license, the court shall, within 5 days after  
21 issuing the order, forward to the department of motor vehicles and public  
22 safety a copy of the order. The department of motor vehicles and public  
23 safety shall report a suspension pursuant to this paragraph to an insurance  
24 company or its agent inquiring about the child's driving record, but such a  
25 suspension must not be considered for the purpose of rating or  
26 underwriting. The department of motor vehicles and public safety shall not  
27 require the child to submit to the tests and other requirements which are  
28 adopted by regulation pursuant to subsection 1 of NRS 483.495 as a  
29 condition of reinstatement or reissuance after a suspension of his license  
30 pursuant to this paragraph, unless the suspension resulted from his poor  
31 performance as a driver.

32 (i) Place the child, when he is not in school, under the supervision of:

33 (1) A public organization to work on public projects;

34 (2) A public agency to work on projects to eradicate graffiti; or

35 (3) A private nonprofit organization to perform other public  
36 service.

37 The person under whose supervision the child is placed shall keep the child  
38 busy and well supervised and shall make such reports to the court as it may  
39 require. As a condition of such a placement, the court may require the child  
40 or his parent or guardian to deposit with the court a reasonable sum of  
41 money to pay for the cost of policies of insurance against liability for  
42 personal injury and damage to property or for industrial insurance, or both,  
43 during those periods in which he performs the work, unless, in the case of  
44 industrial insurance, it is provided by the organization or agency for which  
45 he performs the work.

46 (j) Permit the child to reside in a residence without the immediate  
47 supervision of an adult, or exempt the child from mandatory attendance at  
48 school so that the child may be employed full time, or both, if the child is  
49 at least 16 years of age, has demonstrated the capacity to benefit from this



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1 placement or exemption and is under the strict supervision of the juvenile  
2 division.

3 (k) Require the child to provide restitution to the victim of the crime  
4 which the child has committed.

5 (l) Impose a fine on the child. If a fine is imposed, the court shall  
6 impose an administrative assessment pursuant to NRS 62.2175.

7 (m) If the child has not previously been found to be within the purview  
8 of this chapter and if the act for which the child is found to be within the  
9 purview of this chapter did not involve the use or threatened use of force or  
10 violence, order the child to participate in a publicly or privately operated  
11 program of sports or physical fitness that is adequately supervised or a  
12 publicly or privately operated program for the arts that is adequately  
13 supervised. A program for the arts may include, but is not limited to,  
14 drawing, painting, photography or other visual arts, musical, dance or  
15 theatrical performance, writing or any other structured activity that  
16 involves creative or artistic expression. If the court orders the child to  
17 participate in a program of sports or physical fitness or a program for the  
18 arts, the court may order any or all of the following, in the following order  
19 of priority if practicable:

20 (1) The parent or guardian of the child, to the extent of his financial  
21 ability, to pay the costs associated with the participation of the child in the  
22 program, including, but not limited to, a reasonable sum of money to pay  
23 for the cost of policies of insurance against liability for personal injury and  
24 damage to property during those periods in which the child participates in  
25 the program;

26 (2) The child to work on projects or perform public service pursuant  
27 to paragraph (i) for a period that reflects the costs associated with the  
28 participation of the child in the program; or

29 (3) The county in which the petition alleging the child to be  
30 delinquent or in need of supervision is filed to pay the costs associated with  
31 the participation of the child in the program.

32 2. If the court finds that a child who is less than 17 years of age has  
33 committed a delinquent act, the court may order the parent or guardian of  
34 the child to pay any fines and penalties imposed for the delinquent act. If  
35 the parent or guardian is unable to pay the fines and penalties imposed  
36 because of financial hardship, the court may require the parent or guardian  
37 to perform community service.

38 3. In determining the appropriate disposition of a case concerning a  
39 child found to be within the purview of this chapter, the court shall  
40 consider whether the act committed by the child involved the use of a  
41 firearm or the use or threatened use of force or violence against the victim  
42 of the act and whether the child is a serious or chronic offender. If the court  
43 finds that the act committed by the child involved the use of a firearm or  
44 the use or threatened use of force or violence against the victim or that the  
45 child is a serious or chronic offender, the court shall include the finding in  
46 its order and may, in addition to the options set forth in subsections 1 and 2  
47 of this section and NRS 62.213:

48 (a) Commit the child for confinement in a secure facility, including a  
49 facility which is secured by its staff.



1 (b) Impose any other punitive measures the court determines to be in the  
2 best interests of the public or the child.

3 4. Except as otherwise provided in NRS 62.455 and 62.570, at any  
4 time, either on its own volition or for good cause shown, the court may  
5 terminate its jurisdiction concerning the child.

6 5. Whenever the court commits a child to any institution or agency  
7 pursuant to this section or NRS 62.213, it shall transmit a summary of its  
8 information concerning the child and order the administrator of the school  
9 that the child last attended to transmit a copy of the child's educational  
10 records to the institution or agency. The institution or agency shall give to  
11 the court any information concerning the child that the court may require.

12 6. In determining whether to place a child pursuant to this section in  
13 the custody of a person other than his parent, guardian or custodian,  
14 preference must be given to any person related within the third degree of  
15 consanguinity to the child whom the court finds suitable and able to  
16 provide proper care and guidance for the child.

17 **Sec. 44.** NRS 159.061 is hereby amended to read as follows:

18 159.061 1. The parents of a minor, or either parent, if qualified and  
19 suitable, are preferred over all others for appointment as guardian for the  
20 minor. In determining whether the parents of a minor, or either parent, is  
21 qualified and suitable, the court shall consider, without limitation:

22 (a) Which parent has physical custody of the minor;

23 (b) The ability of the parents or parent to provide for the basic needs of  
24 the child, including, without limitation, food, shelter, clothing and medical  
25 care;

26 (c) Whether the parents or parent has engaged in the habitual use of  
27 alcohol or any controlled substance during the previous 6 months ~~H~~ ,  
28 *except the use of marijuana as authorized pursuant to sections 2 to 33,*  
29 *inclusive, of this act;* and

30 (d) Whether the parents or parent has been convicted of a crime of  
31 moral turpitude, a crime involving domestic violence or a crime involving  
32 the exploitation of a child.

33 2. Subject to the preference set forth in subsection 1, the court shall  
34 appoint as guardian for an incompetent, a person of limited capacity or  
35 minor the qualified person who is most suitable and is willing to serve.

36 3. In determining who is most suitable, the court shall give  
37 consideration, among other factors, to:

38 (a) Any request for the appointment as guardian for an incompetent  
39 contained in a written instrument executed by the incompetent while  
40 competent.

41 (b) Any nomination of a guardian for an incompetent, minor or person  
42 of limited capacity contained in a will or other written instrument executed  
43 by a parent or spouse of the proposed ward.

44 (c) Any request for the appointment as guardian for a minor 14 years of  
45 age or older made by the minor.

46 (d) The relationship by blood or marriage of the proposed guardian to  
47 the proposed ward.

48 (e) Any recommendation made by a special master pursuant to NRS  
49 159.0615.



1     **Sec. 45.** NRS 213.123 is hereby amended to read as follows:  
2     213.123 1. Upon the granting of parole to a prisoner, the board may,  
3     when the circumstances warrant, require as a condition of parole that the  
4     parolee submit to periodic tests to determine whether the parolee is using  
5     any controlled substance. Any such use , *except the use of marijuana as*  
6     *authorized pursuant to sections 2 to 33, inclusive, of this act*, or any  
7     failure or refusal to submit to a test is a ground for revocation of parole.

8     2. Any expense incurred as a result of any test is a charge against the  
9     division.

10    **Sec. 46.** NRS 616C.230 is hereby amended to read as follows:  
11    616C.230 1. Compensation is not payable pursuant to the provisions  
12    of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

13    (a) Caused by the employee's willful intention to injure himself.

14    (b) Caused by the employee's willful intention to injure another.

15    (c) Proximately caused by the employee's intoxication. If the employee  
16    was intoxicated at the time of his injury, intoxication must be presumed to  
17    be a proximate cause unless rebutted by evidence to the contrary.

18    (d) Proximately caused by the employee's use of a controlled substance.  
19    If the employee had any amount of a controlled substance in his system at  
20    the time of his injury for which the employee did not have a current and  
21    lawful prescription issued in his name ~~or~~ *or for which he was not*  
22    *authorized to engage in the use of pursuant to the provisions of sections*  
23    *2 to 33, inclusive, of this act*, the controlled substance must be presumed to  
24    be a proximate cause unless rebutted by evidence to the contrary.

25    2. For the purposes of paragraphs (c) and (d) of subsection 1:

26    (a) The affidavit or declaration of an expert or other person described in  
27    NRS 50.315 is admissible to prove the existence of any alcohol or the  
28    existence, quantity or identity of a controlled substance in an employee's  
29    system. If the affidavit or declaration is to be so used, it must be submitted  
30    in the manner prescribed in NRS 616C.355.

31    (b) When an examination requested or ordered includes testing for the  
32    use of alcohol or a controlled substance, the laboratory that conducts the  
33    testing must be licensed pursuant to the provisions of chapter 652 of NRS.

34    3. No compensation is payable for the death, disability or treatment of  
35    an employee if his death is caused by, or insofar as his disability is  
36    aggravated, caused or continued by, an unreasonable refusal or neglect to  
37    submit to or to follow any competent and reasonable surgical treatment or  
38    medical aid.

39    4. If any employee persists in an unsanitary or injurious practice that  
40    imperils or retards his recovery, or refuses to submit to such medical or  
41    surgical treatment as is necessary to promote his recovery, his  
42    compensation may be reduced or suspended.

43    5. An injured employee's compensation, other than accident benefits,  
44    must be suspended if:

45    (a) A physician or chiropractor determines that the employee is unable  
46    to undergo treatment, testing or examination for the industrial injury solely  
47    because of a condition or injury that did not arise out of and in the course  
48    of his employment; and



\* A B 4 5 3 \*



1 (b) It is within the ability of the employee to correct the nonindustrial  
2 condition or injury.  
3 The compensation must be suspended until the injured employee is able to  
4 resume treatment, testing or examination for the industrial injury. The  
5 insurer may elect to pay for the treatment of the nonindustrial condition or  
6 injury.

7 **Sec. 47.** NRS 630.3066 is hereby amended to read as follows:  
8 630.3066 A physician is not subject to disciplinary action solely for

9 ~~prescribing~~ :

10 1. *Prescribing* or administering to a patient under his care:

11 ~~1-1~~ (a) Amygdalin (laetrile), if the patient has consented in writing to  
12 the use of the substance.

13 ~~2-1~~ (b) Procaine hydrochloride with preservatives and stabilizers  
14 (Gerovital H3).

15 ~~3-1~~ (c) A controlled substance which is listed in schedule II, III, IV or  
16 V by the state board of pharmacy pursuant to NRS 453.146, if the  
17 controlled substance is lawfully prescribed or administered for the  
18 treatment of intractable pain in accordance with accepted standards for the  
19 practice of medicine.

20 2. *Engaging in any activity authorized pursuant to sections 2 to 33,*  
21 *inclusive, of this act.*

22 **Sec. 48.** 1. There is hereby appropriated from the state general fund  
23 to the court administrator of the second judicial district of the State of  
24 Nevada the sum of \$10,000 for the continuation of its program of treatment  
25 for the abuse of alcohol or drugs established pursuant to NRS 453.580.

26 2. There is hereby appropriated from the state general fund to the court  
27 administrator of the eighth judicial district of the State of Nevada the sum  
28 of \$15,000 for the continuation of its program of treatment for the abuse of  
29 alcohol or drugs established pursuant to NRS 453.580.

30 3. The money appropriated by subsections 1 and 2 must be used to  
31 supplement and not supplant or cause to be reduced any other source of  
32 funding for the program of treatment established, respectively, in the  
33 Second and Eighth Judicial District Court pursuant to NRS 453.580.

34 4. Any remaining balances of the appropriations made by subsections  
35 1 and 2 of this act must not be committed for expenditure after June 30,  
36 2001, and revert to the state general fund as soon as all payments of money  
37 committed have been made.

38 **Sec. 49.** The amendatory provisions of this act do not apply to  
39 offenses committed before October 1, 2001.

40 **Sec. 50.** 1. This section and section 48 of this act become effective  
41 upon passage and approval.

42 2. Sections 6, 20, 21, 30 and 32 of this act become effective upon  
43 passage and approval for the purpose of adopting regulations and on  
44 October 1, 2001, for all other purposes.

45 3. Sections 1 to 5, inclusive, 7 to 19, inclusive, 22 to 29, inclusive, 31,  
46 33 to 47, inclusive, and 49 of this act become effective on October 1, 2001.

