

ASSEMBLY BILL NO. 465—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 28, 2005

Referred to Committee on Judiciary

SUMMARY—Prohibits person from allowing child to be present within certain distance of any conveyance or premises wherein certain crimes involving controlled substances other than marijuana are committed. (BDR 40-112)

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

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

AN ACT relating to controlled substances; prohibiting a person from allowing a child to be present within 1,000 feet of any conveyance or premises wherein certain crimes involving controlled substances other than marijuana are committed; providing a penalty; and providing other matters properly relating thereto.

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

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

1. A person shall not intentionally allow a child to be present within 1,000 feet of any conveyance or premises wherein a controlled substance other than marijuana:

(a) Is being used, sold, exchanged, bartered, supplied, prescribed, dispensed, given away or administered in violation of the provisions of NRS 453.011 to 453.552, inclusive, if the person knows or should know of that activity; or



(b) Is being or has been manufactured or compounded in violation of NRS 453.011 to 453.552, inclusive, if the person knows or should know of that activity.

2. Unless a greater penalty is provided by specific statute:

(a) A person who violates the provisions of paragraph (a) of subsection 1:

(1) If the violation does not proximately cause substantial bodily harm or death to the child, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years and shall be further punished by a fine of not more than \$10,000.

(2) If the violation proximately causes substantial bodily harm to the child other than death, 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 6 years and a maximum term of not more than 20 years and shall be further punished by a fine of not more than \$20,000.

(3) If the violation proximately causes the death of the child, is guilty of murder, which is a category A felony, and shall be punished as provided in NRS 200.030.

(b) A person who violates the provisions of paragraph (b) of subsection 1:

(1) If the violation does not proximately cause substantial bodily harm or death to the child, 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 5 years and a maximum term of not more than 20 years and shall be further punished by a fine of not more than \$15,000.

(2) If the violation proximately causes substantial bodily harm to the child other than death, is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

(II) For a definite term of 40 years, with eligibility for parole beginning when a minimum of 10 years has been served,

and shall be further punished by a fine of not more than \$50,000.

(3) If the violation proximately causes the death of the child, is guilty of murder, which is a category A felony, and shall be punished as provided in NRS 200.030.

3. The court shall not grant probation to or suspend the sentence of a person convicted pursuant to this section.

4. As used in this section:



- 1 (a) "Child" means a person who is less than 18 years of age.
2 (b) "Conveyance" means any vessel, boat, vehicle, airplane,
3 glider, house trailer, travel trailer, motor home or railroad car, or
4 other means of conveyance.
5 (c) "Premises" means any temporary or permanent structure,
6 including, without limitation, any building, house, room,
7 apartment, tenement, shed, carport, garage, shop, warehouse,
8 store, mill, barn, stable, outhouse or tent, whether located
9 aboveground or underground and whether inhabited or not.

10 **Sec. 2.** NRS 453.3351 is hereby amended to read as follows:
11 453.3351 1. Unless a greater penalty is provided by law, and
12 except as otherwise provided in NRS 193.169, any person who
13 violates NRS 453.322, 453.3385 or 453.3395 where the violation
14 included the manufacture of any material, compound, mixture or
15 preparation which contains any quantity of methamphetamine:

16 (a) Within 500 feet of a residence, business, church, synagogue
17 or other place of religious worship, public or private school, campus
18 of the University and Community College System of Nevada,
19 playground, public park, public swimming pool or recreational
20 center for youths; **or**

21 ~~(b) In the presence of a person who is less than 18 years of age;~~
22 ~~or~~

23 ~~—(c)~~ In a manner which creates a great risk of death or
24 substantial bodily harm to another person,
25 **↪** shall be punished by imprisonment in the state prison for a term
26 equal to and in addition to the term of imprisonment prescribed by
27 statute for the crime. The sentence prescribed by this section runs
28 consecutively with the sentence prescribed by statute for the crime.

29 2. This section does not create a separate offense but provides
30 an additional penalty for the primary offense, whose imposition is
31 contingent upon the finding of the prescribed fact.

32 3. For the purposes of this section:

33 (a) "Playground" has the meaning ascribed to it in
34 NRS 453.3345.

35 (b) "Recreational center for youths" has the meaning ascribed to
36 it in NRS 453.3345.

37 (c) "Residence" means any house, room, apartment, tenement,
38 manufactured home as defined in NRS 489.113, or mobile home as
39 defined in NRS 489.120, that is designed or intended for occupancy.

40 **Sec. 3.** NRS 200.010 is hereby amended to read as follows:

41 200.010 Murder is the unlawful killing of a human being ~~↳~~
42 ~~with~~ :

43 1. **With** malice aforethought, either express or implied ~~↳~~ ~~or~~
44 ~~caused~~ ;



1 **2. Caused** by a controlled substance which was sold, given,
2 traded or otherwise made available to a person in violation of
3 chapter 453 of NRS **H; or**

4 **3. Caused by a violation of section 1 of this act.**

5 ➔ The unlawful killing may be effected by any of the various means
6 by which death may be occasioned.

7 **Sec. 4.** NRS 207.012 is hereby amended to read as follows:

8 207.012 1. A person who:

9 (a) Has been convicted in this State of a felony listed in
10 subsection 2; and

11 (b) Before the commission of that felony, was twice convicted
12 of any crime which under the laws of the situs of the crime or of this
13 State would be a felony listed in subsection 2, whether the prior
14 convictions occurred in this State or elsewhere,

15 ➔ is a habitual felon and shall be punished for a category A felony
16 by imprisonment in the state prison:

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

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

20 (3) For a definite term of 25 years, with eligibility for parole
21 beginning when a minimum of 10 years has been served.

22 2. The district attorney shall include a count under this section
23 in any information or shall file a notice of habitual felon if an
24 indictment is found, if each prior conviction and the alleged offense
25 committed by the accused constitutes a violation of subparagraph
26 (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160,
27 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390,
28 subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of
29 NRS 200.450, subsection 5 of NRS 200.460, NRS 200.465,
30 subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of
31 paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710,
32 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS
33 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection
34 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060,
35 subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a)
36 of subsection 1 of NRS 212.090, NRS 453.333, 484.219 or
37 484.3795 **H or section 1 of this act.**

38 3. The trial judge may not dismiss a count under this section
39 that is included in an indictment or information.

