THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 19, 2007

Assembly called to order at 11:10 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jacob Benzaquen.

Our Lord, God and the God of our ancestors, we ask for Your blessings for our great republic and the great state of Nevada—for its government, legislature, leaders, and for all who exercise just and rightful authority. God, You are the source of all blessing as it is stated in Genesis to Abraham ". . . I will bless those who bless You . . ."

Creator of all and who renews creation day after day, renew our spirits as it has been sorely tested these last few days. Bless us with deliverance and consolation, for leadership demands devotion; good leadership is never automatic. Bless the leaders of this Assembly with wisdom, vigor, and understanding for the burden of the state and its communities' prosperity rest upon our leaders. Help us to know and remove from us all that is hateful, shameful, and reproachable; bring us near to all that You love. Grant that our labors not be in vain and that they be a blessing and a source of life and peace and welfare. And let us all say:

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 341, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN OCEGUERA, *Chair*

Madam Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 432, 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 122, 529, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Concurrent Committee on Health and Human Services, to which was referred Assembly Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 193, 226, 421, 521, 536, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

Madam Speaker:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 64, 141, 437, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 18, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Assembly Concurrent Resolution No. 9, Senate Amendment No. 64, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 316, 361, 486, 500, 504; Senate Joint Resolution No. 4.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 6, 7, 32, 74, 85, 117, 148, 149, 195, 202, 217, 294, 389, 420, 519; Senate Joint Resolutions Nos. 15, 16.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 19, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 154, 510, and 609.

MARK STEVENS
Fiscal Analysis Division

Assemblyman Oceguera moved that the reading of Histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Oceguera moved that Assembly Bills Nos. 64, 122, 141, 193, 226, 341, 394, 421, 432, 437, 459, 521, 529, 536 just reported out committee, be placed on the Second Reading File.

Motion carried.

Senate Joint Resolution No. 4.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 15.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Joint Resolution No. 16.

Assemblyman Oceguera moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 6.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 7.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 32.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 74.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 85.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 117.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 148.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 149.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 195.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 202.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 217.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 294.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 316.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 361.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 389.

Assemblyman Oceguera moved that the bill be referred to Select Committee on Corrections, Parole, and Probation.

Motion carried.

Senate Bill No. 420.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 486.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 500.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 504.

Assemblyman Oceguera moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 519.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 107 be taken from the Chief Clerk's desk and placed at the top of the General File.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 522 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Remarks by Assemblyman Anderson.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 259 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 422 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 487 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 573 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 145 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 326 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assembly Bill No. 107.

Bill read third time.

The following amendment was proposed by Assemblymen Carpenter, Anderson, Buckley, and Atkinson:

Amendment No. 572.

AN ACT relating to weapons; prohibiting the possession of certain dangerous weapons on the property of the Nevada System of Higher Education or a school and in a school vehicle; prohibiting the possession of certain weapons at an activity sponsored by a school; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the possession of certain weapons on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school. (NRS 202.265) A person who possesses a prohibited weapon is guilty of a gross misdemeanor. Additionally, a person who commits a gross misdemeanor on the property of a private or public school, at an activity sponsored by a private or public school, on a school bus or at a bus stop must be punished by imprisonment in the county jail for not fewer than 15 days and may be punished by a fine of not more than $2,000. (NRS 193.1605)

This bill adds items to the list of prohibited weapons and provides that a person must not carry or possess a prohibited weapon at an activity sponsored by a private or public school. This bill further **prohibits a person from carrying certain dangerous knives on school property during school hours or in a school vehicle. This** bill provides an exception for carrying a knife if necessary for an employee to perform his job or if the knife is provided for use in a class or as part of a program.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess, while on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school:

(a) An explosive or incendiary device;

(b) A dirk, dagger ~~[,]~~ or switchblade knife ; ~~[or dangerous knife;]~~

(c) A nunchaku or trefoil;

(d) A blackjack or billy club or metal knuckles; ~~[or]~~

(e) ***A sword;***

(f) An ax or hatchet;

(g) A machete;

(h) A pistol, revolver or other firearm ~~[.]~~ ***; or***

(i) Other deadly weapon.

2. ***Except as otherwise provided in this section, a*** ~~[pupil of a private or public school]~~ ***person shall not carry or possess any of the items set forth in subsection 1 at an activity sponsored by a private or public school.***

3. Except as otherwise provided in this subsection, a person shall not carry or possess a dangerous knife while on the property of a private or public school during school hours or while in a vehicle of a private or public school. This subsection does not prohibit a person from carrying or possessing a knife in such situations if the person is:

(a) An employee of the school, if a knife is necessary to perform the functions of his job.

(b) A pupil who is enrolled in a class or program in which a knife must be used, so long as the knife is provided to the pupil by the teacher of the class or the person responsible for the program for use in the class or as part of the program.

4. Any person who violates ~~[subsection 1 or 2]~~ ***this section*** is guilty of a gross misdemeanor.

~~[3.]~~ ~~[4.]~~ ***5.*** This section does not prohibit the possession of a weapon listed in ~~[subsection 1]~~ ***this section*** on the property of a private or public school by a:

(a) Peace officer;

(b) School security guard; or

(c) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school to carry or possess the weapon.

~~[4.]~~ ~~[5. This section does not prohibit the possession of a knife on the property of the Nevada System of Higher Education or a private or public school by:~~

~~(a) An employee if a knife is necessary to perform the functions of his job.~~

~~(b) A student or pupil who is enrolled in a class or program in which a knife must be used if the knife is provided to the student or pupil for use in the class or as part of the program.]~~

6. For the purposes of this section:

(a) ***"Dangerous knife" means a knife having a blade that is 2 inches or more in length when measured from the tip of the knife which is customarily sharpened to the unsharpened extension of the blade which forms the hinge connecting the blade to the handle.***

(b) "Firearm" includes:

(1) Any device used to mark the clothing of a person with paint or any other substance; and

(2) Any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

~~[(b)]~~ ***(c)*** "Nunchaku" has the meaning ascribed to it in NRS 202.350.

~~[(c)]~~ ***(d)*** "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

~~[(d)]~~ ***(e)*** "Trefoil" has the meaning ascribed to it in NRS 202.350.

~~[(e)]~~ ***(f)*** "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to paragraph (c) of subsection ~~[3]~~ ~~[4]~~ **5** of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, "public building" means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➥ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. This act becomes effective on July 1, 2007.

Assemblyman Carpenter moved the adoption of the amendment.

Remarks by Assemblyman Carpenter.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 50.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 50:

YEAS—41.

NAYS—Pierce.

Assembly Bill No. 50 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 87.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 87:

YEAS—41.

NAYS—None.

NOT VOTING—Marvel.

Assembly Bill No. 87 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 138.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 138:

YEAS—42.

NAYS—None.

Assembly Bill No. 138 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 160.

Bill read third time.

Remarks by Assemblymen Parnell and Bobzien.

Roll call on Assembly Bill No. 160:

YEAS—42.

NAYS—None.

Assembly Bill No. 160 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 181.

Bill read third time.

Remarks by Assemblymen Manendo and Carpenter.

Roll call on Assembly Bill No. 181:

YEAS—42.

NAYS—None.

Assembly Bill No. 181 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 230.

Bill read third time.

Remarks by Assemblymen Horne, Goicoechea, and Anderson.

Roll call on Assembly Bill No. 230:

YEAS—28.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart—14.

Assembly Bill No. 230 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 236.

Bill read third time.

Remarks by Assemblyman Settelmeyer.

Roll call on Assembly Bill No. 236:

YEAS—42.

NAYS—None.

Assembly Bill No. 236 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 266.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 266:

YEAS—42.

NAYS—None.

Assembly Bill No. 266 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 298.

Bill read third time.

Remarks by Assemblyman Ohrenschall.
Roll call on Assembly Bill No. 298:
YEAS—39.
NAYS—Cobb, Goedhart, Settelmeyer—3.
Assembly Bill No. 298 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 301.
Bill read third time.
Remarks by Assemblyman Horne.
Roll call on Assembly Bill No. 301:
YEAS—33.
NAYS—Beers, Christensen, Claborn, Cobb, Goedhart, Hardy, Mabey, Munford, Weber—9.
Assembly Bill No. 301 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 319.
Bill read third time.
Remarks by Assemblymen Arberry, Oceguera, and Settelmeyer.
Potential conflicts of interest declared by Assemblymen Anderson, Atkinson, Bobzien, Buckley, Carpenter, Denis, Gerhardt, Goicoechea, Grady, Kihuen, Koivisto, Leslie, Manendo, McClain, Munford, Oceguera, Parks, Parnell, Segerblom, Settelmeyer, and Stewart.
Roll call on Assembly Bill No. 319:
YEAS—41.
NAYS—None.
NOT VOTING—Stewart.
Assembly Bill No. 319 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 322.
Bill read third time.
Remarks by Assemblywoman Gansert.
Roll call on Assembly Bill No. 322:
YEAS—42.
NAYS—None.
Assembly Bill No. 322 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 323.
Bill read third time.
Remarks by Assemblywoman Womack.
Roll call on Assembly Bill No. 323:
YEAS—42.
NAYS—None.

Assembly Bill No. 323 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 331.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Assembly Bill No. 331:

YEAS—27.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—15.

Assembly Bill No. 331 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 342.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Assembly Bill No. 342:

YEAS—42.

NAYS—None.

Assembly Bill No. 342 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 348.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 348:

YEAS—41.

NAYS—Kirkpatrick.

Assembly Bill No. 348 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Joint Resolution No. 7.

Resolution read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Joint Resolution No. 7:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 7 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:07 p.m.

ASSEMBLY IN SESSION

At 12:08 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 154 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 510 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.
Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Concurrent Resolution No. 9.
The following Senate amendment was read:
Amendment No. 64.
SUMMARY—Urges the Commission on Economic Development **, *regional economic development authorities and local redevelopment agencies*** to promote economic development and urban renewal and to stimulate employment in certain areas. (BDR R-191)
"ASSEMBLY CONCURRENT RESOLUTION—Urging the Commission on Economic Development **, *regional economic development authorities and local redevelopment agencies*** to develop programs to promote economic development and urban renewal and to stimulate employment in certain areas."
WHEREAS, The health, safety and welfare of the people of this State are dependent upon a healthy economy and vibrant communities; and
WHEREAS, The continual encouragement, development, growth and expansion of private enterprise within the State require a cooperative and continuous partnership between government and private organizations; and
WHEREAS, There are certain depressed and blighted areas in this State that need the particular attention of government, business, labor and the residents of Nevada to help attract private investment into the area; and
WHEREAS, Many older neighborhoods in urban areas are in need of a redevelopment program focused on breathing new life into deteriorated areas plagued by social, environmental or economic conditions which act as a barrier to new investment by private enterprise; and
WHEREAS, Many of these areas are fully populated communities in this State that have not benefited from any new growth or new industry in years, and this has led to a depressed economy, a negative image for the community and a lost sense of pride among its residents; and

WHEREAS, As taxpayers in this State, the residents of these areas deserve to see a portion of the revenue from their tax dollars used to restore and strengthen their communities, thereby improving their quality of life; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislature hereby urges the Commission on Economic Development ***, regional economic development authorities and local redevelopment agencies*** to establish ~~[a program]~~ ***programs*** of economic development for the older neighborhoods in depressed areas of this State to improve economic prosperity and create economic benefits for the community, its residents, the local government and the State; and be it further

RESOLVED, That the Commission on Economic Development ~~[is]~~ ***, regional economic development authorities and local redevelopment agencies are*** encouraged to utilize the provisions of Senate Bill No. 229 of the 2005 Legislative Session which became effective on October 1, 2005, to promote the growth of business and industry in certain deprived areas in this State, thereby creating new jobs, increased property values and an enhanced standard of living desired by all Nevadans; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Commission on Economic Development ~~[.]~~ ***, Nevada Development Authority, Economic Development Authority of Western Nevada, Northern Nevada Development Authority, Elko County Economic Diversification Authority, Economic Development Authority for Esmeralda and Nye Counties, Churchill Economic Development Authority, Humboldt County Development Authority, White Pine County Economic Diversification Council, Pershing County Economic Development Authority, Lander Economic Development Authority, Mineral County Economic Development Authority, Lincoln County Regional Development Authority, Eureka County Economic Development Council, Western Nevada Development District, Clark County Redevelopment Agency, Las Vegas Redevelopment Agency, Reno Redevelopment Agency, Henderson Redevelopment Agency, North Las Vegas Redevelopment Agency, Sparks Redevelopment Agency, Carson City Redevelopment Agency, Elko Redevelopment Agency, Douglas County Redevelopment Agency, Boulder City Redevelopment Agency and Mesquite Redevelopment Agency.***

Assemblyman Munford moved that the Assembly concur in the Senate amendment to Assembly Concurrent Resolution No. 9.

Remarks by Assemblyman Munford.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:11 p.m.

ASSEMBLY IN SESSION

At 12:23 p.m.

Madam Speaker presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 64.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 570.

SUMMARY—Makes various changes concerning the ~~[enforcement of a court order to complete certain training]~~ **penalties imposed by a court** when a defendant ~~[failed]~~ **fails** to properly secure a child in a child restraint system in a vehicle. (BDR 43-268)

AN ACT relating to traffic laws; making various changes concerning the ~~[enforcement of a court order to complete certain training]~~ **penalties imposed by a court** when a defendant ~~[failed]~~ **fails** to properly secure a child in a child restraint system in a vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who transports a child who is less than 6 years of age and who weighs 60 pounds or less to secure the child in a child restraint system. A court is required to order a defendant who did not comply with that requirement to complete a program of training in the installation and use of child restraint systems, unless the defendant is not a resident of the State of Nevada. The court is further required to impose a fine or require the defendant to perform community service, but may waive a portion of the fine or community service if the program of training certifies to the court that the defendant completed the program of training. ~~[Section 1 of this]~~ **This** bill ~~[revises the procedures so that the person or agency which conducts the program of training is required to provide the defendant with a certificate of completion. The defendant is then required to submit the certificate to the court. Failure to complete the training or submit the certificate results in the suspension of the driver's license of the person until the person provides the Department of Motor Vehicles with a copy of the certificate of completion.]~~ **deletes the requirement that a court order a defendant to undergo a program of training and requires the court to provide the defendant with a referral list of available programs of training. This bill also increases the amount of the fine or hours of community service a court may impose for failing to properly secure the child in a child restraint system. Further, for a first offense, a defendant may have the fine or hours of community service waived if he successfully completes a program of training recommended by the court and presents proof of**

completion of the training to the court. For a second offense, a defendant may have the fine or hours of community service reduced by half if he successfully completes a program of training recommended by the court and presents proof of completion of the training to the court.

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

Section 1. ~~[Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Upon satisfactory completion of a program of training, the person or agency which conducts a program of training pursuant to NRS 484.474 shall provide the defendant with a certificate of completion.*~~

~~*2. The certificate of completion must contain:*~~

~~*(a) The defendant's full name;*~~

~~*(b) The dates of the training;*~~

~~*(c) The signature of the person or representative of the agency who conducted the training verifying that the defendant successfully completed the program; and*~~

~~*(d) A current mailing address and telephone number of the person or representative of the agency who conducted the training.*~~

~~*3. The defendant must provide a copy of the certificate of completion to the court that ordered the training within the time set forth in the order pursuant to NRS 484.474.*~~

~~*4. If the court does not receive a copy of the certificate of completion from the defendant within the time set forth in the order, the court shall issue an order suspending the driver's license of the defendant, unless the court finds that the defendant failed to provide a copy of the certificate for good cause.*~~

~~*5. If the court issues an order suspending the driver's license of the defendant pursuant to subsection 4, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward the driver's licenses and a copy of the order to the Department.*~~

~~*6. The Department shall reinstate a license suspended pursuant to subsection 4 when the defendant provides the Department with a copy of a certificate of completion.]~~~~ **(Deleted by amendment.)**

Sec. 2. NRS 484.474 is hereby amended to read as follows:

484.474 1. Except as otherwise provided in subsection 7, any person who is transporting a child who is less than 6 years of age and who weighs 60 pounds or less in a motor vehicle operated in this State which is equipped to carry passengers shall secure the child in a child restraint system which:

(a) Has been approved by the United States Department of Transportation in accordance with the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. Part 571;

(b) Is appropriate for the size and weight of the child; and

(c) Is installed within and attached safely and securely to the motor vehicle:

(1) In accordance with the instructions for installation and attachment provided by the manufacturer of the child restraint system; or

(2) In another manner that is approved by the National Highway Traffic Safety Administration.

2. If a defendant pleads or is found guilty of violating the provisions of subsection 1, the court shall:

(a) ~~[In addition to any other penalty imposed by law, order the defendant to complete a program of training conducted by a person or agency approved by the Department of Public Safety in the installation and use of child restraint systems]~~ ~~[,]~~ ~~[within 60 days except that the court shall waive the requirements of this paragraph if the defendant is not a resident of the State of Nevada; and~~

~~(b) Except as otherwise provided in this paragraph, order the defendant to pay a fine of not less than $50 nor more than $500, or order the defendant to perform not less than 8 hours nor more than 50 hours of community service. The court may:~~

~~(1) For a first offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine or any amount of the community service; and~~

~~(2) For a second or subsequent offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine in excess of $50 or any amount of the community service in excess of 8 hours,~~

~~• if the defendant provides the court with a copy of the certificate of completion provided by the person or representative of the agency]~~ ~~[which]~~ ~~[who provided the program of training to the defendant .]~~ ~~[certifies to the court]~~ ~~[The certificate must certify that the defendant has completed the program of training required by paragraph (a), has paid the fee, if any, established for the program pursuant to subsection 4 and has presented for inspection by the person or agency an installed child restraint system that satisfies the provisions of subsection 1. The provisions of this paragraph do not authorize the waiver of any fee established by a person or agency pursuant to subsection 4.]~~ ***For a first offense, order the defendant to pay a fine of not less than $100 nor more than $500 or order the defendant to perform not less than 10 hours nor more than 50 hours of community service;***

(b) For a second offense, order the defendant to pay a fine of not less than $500 nor more than $1000 or order the defendant to perform not less than 50 hours nor more than 100 hours of community service; and

(c) For a third or subsequent offense, suspend the driver's license of the defendant for not less than 30 days nor more than 180 days.

3. ~~[The]~~ ***At the time of sentencing, the*** court shall ~~[make available]~~ ***provide the defendant with*** a list of persons and agencies approved by the

Department of Public Safety to conduct programs of training and perform inspections of child restraint systems. The list must include, without limitation, an indication of the fee, if any, established by the person or agency pursuant to subsection 4. ***If, within 60 days after sentencing, a defendant provides the court with proof of satisfactory completion of a program of training provided for in this subsection, the court shall:***

(a) If the defendant was sentenced pursuant to paragraph (a) of subsection 2, waive the fine or community service previously imposed; or

(b) If the defendant was sentenced pursuant to paragraph (b) of subsection 2, reduce by one-half the fine or community service previously imposed.

4. A person or agency approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems may, in cooperation with the Department, establish a fee to be paid by defendants who are ordered to complete a program of training. The amount of the fee, if any:

(a) Must be reasonable; ~~[not exceed the actual operating costs associated with providing the program of training;]~~ and

(b) May, if a defendant desires to acquire a child restraint system from such a person or agency, include the cost of a child restraint system provided by the person or agency to the defendant.

➥ A program of training may not be operated for profit.

5. For the purposes of NRS 483.473, a violation of this section is not a moving traffic violation.

6. A violation of this section may not be considered:

(a) Negligence in any civil action; or

(b) Negligence or reckless driving for the purposes of NRS 484.377.

7. This section does not apply:

(a) To a person who is transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle.

(b) When a physician determines that the use of such a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition. In this case, the person transporting the child shall carry in the vehicle the signed statement of the physician to that effect.

8. As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat or position children. The term includes, without limitation:

(a) Booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a safety belt;

(b) Integrated child seats; and

(c) Safety belts that are designed specifically to be adjusted to accommodate children.

Assemblyman Manendo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 122.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 386.

AN ACT relating to counties; revising the provisions governing systems used for reporting emergencies in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, counties whose population is 20,000 or more but less than 400,000 (currently Washoe, Elko, Douglas, Nye, Lyon and Churchill Counties and Carson City) may impose a surcharge to enhance the telephone system for reporting an emergency in the county so that the number and address from which a call received by the system is made may be determined. The proceeds of the surcharge are required to be deposited in a special revenue fund of the county and may only be used to enhance the telephone system. (NRS 244A.7643, 244A.7645) Sections 1 and 2 of this bill expand the authority to impose such a surcharge to counties whose population is less than 20,000 (currently Humboldt, White Pine, Pershing, Lander, Mineral, Lincoln, Storey, Eureka and Esmeralda Counties). Sections 1 and 2 also allow counties that impose such a surcharge, other than a county whose population is 100,000 or more **but less than 400,000** (currently Washoe County), to spend the proceeds of the surcharge for the additional purpose of improving the telephone system for reporting an emergency in the county . ~~[and any related communications system, which may include purchasing, leasing or renting the equipment and software necessary to ensure the interoperability of the communications system among emergency response agencies.]~~

Existing law authorizes local governments to impose certain fees on public utilities, including persons and local governments that sell or resell personal wireless services, for a business license, franchise or right-of-way, which are deposited in the general fund of the local government. (NRS 354.59881-354.59889) Under existing law, if a surcharge to enhance the telephone system for reporting an emergency is imposed in a county whose population is less than 100,000 and the governing body of the county or a city within the county also imposes a fee for a business license on a provider of personal wireless service, the money generated by the fee is required to be deposited into the same special revenue fund in which the proceeds of the surcharge are deposited. (NRS 244A.7645, 244A.76455) Section ~~[3]~~ **4** of this bill eliminates the requirement that these fees be deposited in the special revenue fund; therefore, such fees will be deposited in the county general fund in the

same manner as before the enactment of the ordinance imposing the surcharge.

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

Section 1. NRS 244A.7643 is hereby amended to read as follows:

244A.7643 1. Except as otherwise provided in this section, the board of county commissioners in a county whose population is ~~[~~20,000~~]~~ ***100,000*** or more but less than 400,000 may ~~[,]~~ by ordinance, ***for the enhancement of the telephone system for reporting an emergency in the county,*** impose a surcharge on:

(a) Each access line or trunk line of each customer to the local exchange of any ~~[telephone company]~~ ***telecommunications provider*** providing those lines in the county; and

(b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county **.** ~~[,~~

~~➥ for the enhancement of the telephone system for reporting an emergency in the county.]~~

2. ***Except as otherwise provided in this section, the board of county commissioners in a county whose population is less than 100,000 may by ordinance, for the enhancement or improvement of the telephone*** ~~[and communications]~~ ***system for reporting an emergency in the county, impose a surcharge on:***

(a) Each access line or trunk line of each customer to the local exchange of any ~~[telephone company]~~ ***telecommunications provider providing those lines in the county; and***

(b) The mobile telephone service provided to each customer of that service whose place of primary use is in the county.

3. The board of county commissioners of a county whose population is less than 100,000 may not impose a surcharge pursuant to this section unless the board first adopts a 5-year master plan for the enhancement ***or improvement*** of the telephone ~~[and communications]~~ system for reporting emergencies in the county. The master plan must include an estimate of the cost of the enhancement ***or improvement*** of the telephone ~~[and communications]~~ system and all proposed sources of money for funding the enhancement ~~[.~~

~~3.]~~ ***or improvement.***

4. The surcharge imposed by a board of county commissioners pursuant to this section:

(a) For each access line to the local exchange of a ~~[telephone company,]~~ ***telecommunications provider,*** must not exceed 25 cents each month;

(b) For each trunk line to the local exchange of a ~~[telephone company,]~~ ***telecommunications provider,*** must equal 10 times the amount of the surcharge imposed for each access line to the local exchange of a ~~[telephone company]~~ ***telecommunications provider*** pursuant to paragraph (a); and

(c) For each telephone number assigned to a customer by a supplier of mobile telephone service, must equal the amount of the surcharge imposed for each access line to the local exchange of a ~~[telephone company]~~ ***telecommunications provider*** pursuant to paragraph (a).

~~[4.]~~ ***5.*** A ~~[telephone company]~~ ***telecommunications provider*** which provides access lines or trunk lines in a county which imposes a surcharge pursuant to this section or a supplier which provides mobile telephone service to a customer in such a county shall collect the surcharge from its customers each month. Except as otherwise provided in NRS 244A.7647, the ~~[telephone company]~~ ***telecommunications provider*** or supplier shall remit the surcharge it collects to the treasurer of the county in which the surcharge is imposed not later than the 15th day of the month after the month it receives payment of the surcharge from its customers.

~~[5.]~~ ***6.*** An ordinance adopted pursuant to subsection 1 ***or 2*** may include a schedule of penalties for the delinquent payment of amounts due from ~~[telephone companies]~~ ***telecommunications providers*** or suppliers pursuant to this section. Such a schedule:

(a) Must provide for a grace period of not less than 90 days after the date on which the ~~[telephone company]~~ ***telecommunications provider*** or supplier must otherwise remit the surcharge to the county treasurer; and

(b) Must not provide for a penalty that exceeds 5 percent of the cumulative amount of surcharges owed by a ~~[telephone company]~~ ***telecommunications provider*** or a supplier.

~~[6.]~~ ***7.*** As used in this section, "trunk line" means a line which provides a channel between a switchboard owned by a customer of a ~~[telephone company]~~ ***telecommunications provider*** and the local exchange of the ~~[telephone company.]~~ ***telecommunications provider.***

Sec. 2. NRS 244A.7645 is hereby amended to read as follows:

244A.7645 ***1.*** If a surcharge is imposed ~~[in a county]~~ pursuant to NRS 244A.7643 ~~[,]~~ ***in a county whose population is 100,000 or more but less than 400,000,*** the board of county commissioners of that county shall ~~[:~~

~~1. Establish,]~~ ***establish*** by ordinance ~~[,]~~ an advisory committee to develop a plan to enhance the telephone system for reporting an emergency in that county and to oversee any money allocated for that purpose. The advisory committee must consist of not less than five members who:

(a) Are residents of the county;

(b) Possess knowledge concerning telephone systems for reporting emergencies; and

(c) Are not elected public officers.

~~[➥ If the county in which the]~~

2. If a surcharge is ~~[being]~~ imposed pursuant to NRS 244A.7643 ~~[has a population of]~~ ***in a county whose population is*** less than 100,000, the ***board of county commissioners of that county shall establish by ordinance an advisory committee to develop a plan to enhance or improve the telephone*** ~~[and communications]~~ ***system for reporting an emergency in that county***

and to oversee any money allocated for that purpose. The advisory committee must ~~[include]~~ ***:***

(a) Consist of not less than five members who:

(1) Are residents of the county;

(2) Possess knowledge concerning telephone ~~[and communications]~~ ***systems for reporting emergencies; and***

(3) Are not elected public officers; and

(b) Include a representative of an incumbent local exchange carrier which provides service to persons in that county. As used in this ~~[subsection,]~~ ***paragraph,*** "incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.

~~[2. Create]~~

3. If a surcharge is imposed in a county pursuant to NRS 244A.7643, the board of county commissioners of that county shall create a special revenue fund of the county for the deposit of the money collected pursuant to NRS 244A.7643. The money in the fund must be used only ~~[to]~~ ***:***

(a) To enhance the telephone system for reporting an emergency so that the number and address from which a call received by the system is made may be determined, including only:

~~[(a)]~~ ***(1)*** Paying recurring and nonrecurring charges for telecommunication services necessary for the operation of the enhanced telephone system;

~~[(b)]~~ ***(2)*** Paying costs for personnel and training associated with the routine maintenance and updating of the database for the system;

~~[(c)]~~ ***(3)*** Purchasing, leasing or renting the equipment and software necessary to operate the enhanced telephone system; and

~~[(d)]~~ ***(4)*** Paying costs associated with any maintenance, upgrade and replacement of equipment and software necessary for the operation of the enhanced telephone system.

~~[3.]~~ ***(b) In a county whose population is less than 100,000, to improve the telephone*** ~~[and communications]~~ ***system for reporting an emergency in the county .*** ~~[, including, without limitation, purchasing, leasing or renting the equipment and software necessary to ensure the interoperability of the system for communication among emergency response agencies, including, without limitation, local police and fire departments.]~~

4. If the balance in the fund created pursuant to subsection ~~[2]~~ ***3*** which has not been committed for expenditure exceeds $500,000 at the end of any fiscal year, ***the board of county commissioners shall*** reduce the amount of the surcharge imposed during the next fiscal year by the amount necessary to ensure that the unencumbered balance in the fund at the end of the next fiscal year does not exceed $500,000.

Sec. 3. **NRS 244A.7647 is hereby amended to read as follows:**

244A.7647 A ~~[telephone company]~~ ***telecommunications provider*** or supplier which collects the surcharge imposed pursuant to NRS 244A.7643 is

entitled to retain an amount of the surcharge collected which is equal to the cost to collect the surcharge.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 244A.76455 is hereby repealed.

~~[Sec. 4.]~~ ***Sec. 5.*** This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

244A.76455 Requiring deposit of business license fees imposed in county whose population is less than 100,000 on providers of personal wireless service into special revenue fund; exceptions.

1. If the board of county commissioners of a county whose population is less than 100,000 imposes a surcharge pursuant to NRS 244A.7643 and:

(a) The board also imposes a fee on a provider of personal wireless service and the fee is a fee for a business license which is regulated pursuant to NRS 354.59881 to 354.59889, inclusive, the county treasurer shall, except as otherwise provided in this section, deposit the money generated from that fee, including any penalty and interest assessed pursuant to NRS 354.59887, into the special revenue fund.

(b) A city located within the county imposes a fee on a provider of personal wireless service and the fee is a fee for a business license which is regulated pursuant to NRS 354.59881 to 354.59889, inclusive, the governing body of the city shall transfer the money generated from that fee, including any penalty and interest assessed pursuant to NRS 354.59887, to the county treasurer for deposit into the special revenue fund.

2. A county treasurer shall not deposit any money into the special revenue fund pursuant to this section if the deposit of the money would cause the unencumbered balance in the special revenue fund to exceed the maximum allowable balance for the special revenue fund set forth in NRS 244A.7645.

3. If the governing body of a city transfers to the county treasurer for deposit into the special revenue fund pursuant to this section money generated from fees for business licenses which fees are regulated by NRS 354.59881 to 354.59889, inclusive, and the deposit of that money into the special revenue fund would cause the unencumbered balance of the special revenue fund to exceed the maximum allowable balance for the special revenue fund set forth in NRS 244A.7645, the county treasurer shall refund to the governing body of the city that amount of such money which, if so deposited, would cause the unencumbered balance of the special revenue fund to exceed its maximum allowable balance.

4. As used in this section:

(a) ”Personal wireless service” has the meaning ascribed to it in NRS 354.598816.

(b) ”Special revenue fund” means the special revenue fund created pursuant to NRS 244A.7645.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 141.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 450.

AN ACT relating to motor vehicles; providing for the inspection and forfeiture of certain seized vehicles or parts which have altered or missing identification numbers or marks; prohibiting the disclosure of certain information related to the investigation of such a vehicle or part; prohibiting a vehicle dealer, garage owner and certain other businesses from possessing a vehicle or part which has a missing or altered identification number or mark; revising the penalty for possessing such a vehicle or part; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill ~~[requires]~~ **prohibits** vehicle dealers, garagemen, automobile wreckers, operators of salvage pools or body shops or the employees of any such establishment ~~[to inspect vehicles or parts from vehicles that come into their possession in the ordinary course of business to ensure that the required]~~ **from taking possession of a motor vehicle or part from a motor vehicle which he knows to have** identification numbers or marks ~~[have not]~~ **that have** been falsely attached, removed, defaced, altered or obliterated. A person who violates ~~[the requirements of]~~ this provision is guilty of a category D felony.

Section 8 of this bill requires vehicle dealers, garagemen, automobile wreckers, operators of salvage pools or body shops, tow car operators and certain other businesses or the employees of any such establishment who discover during the course of business that a motor vehicle or part from a motor vehicle has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated to ~~[immediately]~~ notify law enforcement **within 24 hours after discovery** and makes failure to notify a misdemeanor.

Section 9 of this bill prohibits a person from disclosing in open court or in discoverable documents the confidential investigative techniques or the location of confidential identifying numbers or marks used by law enforcement with regard to stolen vehicles or parts.

Section 12 of this bill requires law enforcement or an employee of the Department of Motor Vehicles to inspect vehicles or parts from vehicles seized by law enforcement to determine if a required identification number or mark has been falsely attached, removed, defaced, altered or obliterated. This section authorizes the forfeiture of the vehicle if the identification number or

mark has been falsely attached, removed, defaced, altered or obliterated and there is no satisfactory evidence of ownership of the vehicle or part.

Existing law prohibits a person from knowingly possessing with the intent to sell, transfer, import or export more than one motor vehicle or parts from more than one motor vehicle that have an identification number or mark that is defaced, destroyed or altered. (NRS 482.551) Section 15 of this bill: (1) deletes the intent requirement; (2) deletes the requirement that there must be more than one motor vehicle; and (3) changes the penalty from a category D felony to a gross misdemeanor.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ***As used in NRS 482.544 to 482.554, inclusive, and sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 484.544 and sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Automobile wrecker" means a person who obtains a license pursuant to NRS 487.050 to dismantle, scrap, process or wreck a vehicle.***

Sec. 4. ***"Body shop" has the meaning ascribed to it in NRS 487.600.***

Sec. 5. ***"Garageman" has the meaning ascribed to it in NRS 487.545.***

Sec. 6. ***"Salvage pool" has the meaning ascribed to it in subsection 2 of NRS 487.400.***

Sec. 7. ~~[1. Before a vehicle dealer or employee of a vehicle dealer takes possession of a vehicle pursuant to an agreement to purchase or exchange a motor vehicle or part from a motor vehicle, the vehicle dealer or employee shall inspect or cause the vehicle to be inspected to ensure that any required identification number or mark on the vehicle or part from the vehicle has not been falsely attached, removed, defaced, altered or obliterated.~~

~~2. Before a garageman, employee of a garageman, owner or employee of an automobile wrecker, or operator of a salvage pool or body shop takes possession of a motor vehicle or part from a motor vehicle to perform any work on the motor vehicle or part from the motor vehicle or otherwise takes possession of a motor vehicle or part from a motor vehicle in the ordinary course of business, he shall inspect or cause the motor vehicle or part from the motor vehicle to be inspected to ensure that any required identification number or mark has not been falsely attached, removed, defaced, altered or obliterated.~~

~~3.]~~ ***A vehicle dealer, employee of a vehicle dealer, garageman, employee of a garageman, owner or employee of an automobile wrecker, or operator of a salvage pool or body shop who*** ~~[violates the provisions of this section or who otherwise knowingly possesses]~~ ***takes possession of a motor vehicle or part from a motor vehicle*** ~~[which has]~~ ***knowing that an***

identification number or mark ~~[which]~~ ***has been falsely attached, removed, defaced, altered or obliterated, unless the motor vehicle or part has an identification number attached to it which has been assigned or approved by the Department in lieu of the original identification number or mark, 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 $30,000.]~~

Sec. 8. ***1. A vehicle dealer, garageman, automobile wrecker, operator of a salvage pool or body shop, tow car operator, any other business subject to inspection pursuant to NRS 480.610 and the employee of any such establishment who discovers during the course of business that a motor vehicle or part from a motor vehicle has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated shall*** ~~[immediately]~~ ***notify the Department or a local law enforcement agency*** ~~[.]~~ ***within 24 hours after discovery.***

2. A person who fails to provide ~~[immediate]~~ ***notification pursuant to subsection 1 is guilty of a misdemeanor.***

Sec. 9. ***1. Except as otherwise provided in this section, a person shall not disclose during any court proceeding or in any written document produced pursuant to a request for discovery of documents in any action involving the theft of a motor vehicle or part from a motor vehicle the identification of any confidential investigative technique or the location of any confidential identifying number or mark used by a law enforcement agency or the Department to identify a motor vehicle or part from a motor vehicle.***

2. Upon request of a party to the action, the court may review confidential techniques and information related to the location of confidential identifying numbers or marks in camera to determine whether disclosure of such information is necessary to determine the issue before the court and may make any orders that justice may require.

Sec. 10. NRS 482.290 is hereby amended to read as follows:

482.290 1. The Department is authorized to assign a distinguishing number to any motor vehicle or trailer whenever the vehicle identification number thereon has been ~~[destroyed]~~ ***falsely attached, removed, defaced, altered*** or obliterated, and any motor vehicle or trailer to which there is assigned a distinguishing number as authorized in this section shall be registered under such distinguishing number.

2. The Department shall collect a fee of $2 for the assignment and recording of each such vehicle identification number and for the assignment of distinguishing numbers pursuant to NRS 482.553.

3. The number by which a motor vehicle or trailer is registered shall be permanently stamped or attached to the vehicle. ~~[Willful defacement, alteration, substitution, or removal]~~ ***False attachment or willful removal, defacement, alteration or obliteration*** of such a number with intent to defraud ~~[shall be]~~ ***is*** a gross misdemeanor.

Sec. 11. NRS 482.3175 is hereby amended to read as follows:

482.3175 1. The Department may refuse to issue or suspend or revoke a license as a vehicle transporter upon any of the following grounds:

(a) Conviction of a felony in the State of Nevada or any other state, territory or nation.

(b) Material misstatement in the application for a license.

(c) Evidence of unfitness of the applicant or licensee.

(d) Willful failure to comply with the provisions of this chapter or the regulations adopted pursuant thereto, or any law relating to the operation of a motor vehicle.

(e) Failure or refusal to furnish and keep in force any bond.

(f) Failure of the licensee to maintain any other license required by any political subdivision of this State.

(g) Knowingly having possession of a stolen motor vehicle or a motor vehicle with a ~~[defaced, altered or obliterated]~~ manufacturer's identification number or other distinguishing number or identification mark ~~[.]~~ ***which has been falsely attached, removed, defaced, altered or obliterated.***

(h) Loaning or permitting the improper use of any special license plate assigned to him.

2. Any person whose application is denied or license is suspended or revoked pursuant to this section is entitled to a hearing as provided in NRS 482.353.

Sec. 12. NRS 482.540 is hereby amended to read as follows:

482.540 1. Any police officer, without a warrant, may seize and take possession of any vehicle:

(a) Which is being operated with improper registration;

(b) Which the officer has probable cause to believe has been stolen;

(c) On which any motor number, manufacturer's number or identification mark has been falsely attached, ***removed,*** defaced, altered or obliterated; or

(d) Which contains a part on which was placed or stamped by the manufacturer pursuant to federal law or regulation an identification number or other distinguishing number or mark that has been falsely attached, ***removed,*** defaced, altered or obliterated.

2. ***A law enforcement agency or an employee of the Department whose primary responsibility is to conduct investigations involving the theft of motor vehicles shall inspect any vehicle seized pursuant to paragraph (c) or (d) of subsection 1 to determine whether the number or mark in question on the vehicle or part from the vehicle has been falsely attached, removed, defaced, altered or obliterated and whether any person has presented satisfactory evidence of ownership of the vehicle. The agency or employee shall prepare a written report which sets forth the results of the inspection within 30 days after the vehicle is seized.***

3. If the results of the report conclude that the number or mark in question has been falsely attached, removed, defaced, altered or obliterated and that there is no satisfactory evidence of ownership, the court shall

declare the vehicle forfeited and proceed in the manner set forth in NRS 482.542.

4. A person must not be charged with any criminal act which caused a motor vehicle to be seized pursuant to paragraph (c) or (d) of subsection 1 until the report is completed pursuant to subsection 2.

5. As used in this section, "police officer" means:

(a) Any peace officer of the Department;

(b) Sheriffs of counties and ***officers*** of metropolitan police departments and their deputies; and

(c) Marshals and policemen of cities and towns.

Sec. 13. NRS 482.544 is hereby amended to read as follows:

482.544 ~~[As used in NRS 482.544 to 482.554, inclusive, unless the context otherwise requires, "identification]~~ ***"Identification*** number or mark" means:

1. The motor number, other distinguishing number or identification mark of a vehicle required or employed for purposes of registration; or

2. The identification number or other distinguishing number or identification mark of a vehicle or part of a motor vehicle that was placed or stamped on that vehicle or part by the manufacturer pursuant to federal law or regulations.

Sec. 14. NRS 482.545 is hereby amended to read as follows:

482.545 It is unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit the operation of, upon a highway any motor vehicle, trailer or semitrailer which is not registered or which does not have attached thereto and displayed thereon the number of plate or plates assigned thereto by the Department for the current period of registration or calendar year, subject to the exemption allowed in NRS 482.316 to 482.3175, inclusive, 482.320 to 482.363, inclusive, 482.385 to 482.3965, inclusive, and 482.420.

2. To display, cause or permit to be displayed or to have in possession any certificate of registration, license plate, certificate of title or other document of title knowing it to be fictitious or to have been cancelled, revoked, suspended or altered.

3. To lend to **,** or knowingly permit the use of by **,** one not entitled thereto any registration card or plate issued to the person so lending or permitting the use thereof.

4. To fail or to refuse to surrender to the Department, upon demand, any registration card or plate which has been suspended, cancelled or revoked as provided in this chapter.

5. To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in an application. A violation of this subsection is a gross misdemeanor.

6. Knowingly to operate a vehicle which:

(a) Has an ~~[altered]~~ identification number or mark ~~[; or]~~ ***which has been falsely attached, removed, defaced, altered or obliterated; or***

(b) Contains a part which has an ~~[altered]~~ identification number or mark ~~[.]~~ ***which has been falsely attached, removed, defaced, altered or obliterated.***

Sec. 15. NRS 482.551 is hereby amended to read as follows:

482.551 1. Except as otherwise provided in ~~[subsections 3 and 4,]~~ ***subsection 3,*** a person who knowingly:

(a) Buys with the intent to resell;

(b) Disposes of;

(c) Sells; or

(d) Transfers,

➥ ~~[more than one]~~ ***a*** motor vehicle or ~~[parts from more than one]~~ ***part from a*** motor vehicle that ~~[have]~~ ***has*** an identification number or mark that ~~[is]~~ ***has been falsely attached, removed,*** defaced, ~~[destroyed or]~~ altered ***or obliterated*** to misrepresent the identity or to prevent the identification of the motor ~~[vehicles or parts of the motor vehicles,]~~ ***vehicle or part from a motor vehicle*** 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 10 years, and may be further punished by a fine of not more than $60,000, or by both fine and imprisonment.

2. Except as otherwise provided in ~~[subsections 3 and 4,]~~ ***subsection 3 and section 7 of this act, or if a greater penalty is otherwise provided by law,*** a person who ~~[knowingly possesses]~~ ~~[with the intent to sell, transfer, import or export more than one]~~ ***takes possession of a*** motor vehicle or ~~[parts from more than one]~~ ***part from a*** motor vehicle ***knowing*** that ~~[have]~~ ~~[has]~~ an identification number or mark ~~[that]~~ ~~[is]~~ ***has been falsely attached, removed,*** defaced, ~~[destroyed or altered to misrepresent the identity or prevent the identification of the motor vehicles or parts of the motor vehicles, 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 $30,000.~~

~~3. The provisions of this section do not apply to a licensed automobile wrecker or salvage pool that in the normal, legal course of business and in good faith, processes a motor vehicle or part of a motor vehicle by crushing, compacting or using other similar methods to process the motor vehicle or part if:~~

~~(a) The identification number or mark of the motor vehicle or part of the motor vehicle was not defaced, destroyed or altered before the processing; or~~

~~(b) The motor vehicle or part of the motor vehicle was obtained from a person described in subsection 4.~~

~~4.]~~ ***altered or obliterated is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $10,000, or by both fine and imprisonment.***

3. The provisions of this section do not apply to an owner of or person authorized to possess a motor vehicle or part of a motor vehicle:

(a) If the motor vehicle or part of the motor vehicle was recovered by a law enforcement agency after having been stolen; ~~[or]~~

(b) If the condition of the identification number or mark of the motor vehicle or part of the motor vehicle is known to, or has been reported to, a law enforcement agency ~~[.~~

~~5. For the purposes of this section:~~

~~(a) "Automobile wrecker" means a person who obtains a license pursuant to NRS 487.050 to dismantle, scrap, process or wreck a vehicle.~~

~~(b) "Salvage pool" has the meaning ascribed to it in subsection 2 of NRS 487.400.]~~ ***; or***

(c) If the motor vehicle or part from the motor vehicle has an identification number attached to it which has been assigned or approved by the Department in lieu of the original identification number or mark.

Sec. 16. NRS 482.553 is hereby amended to read as follows:

482.553 1. A person shall not intentionally ***remove,*** deface, ~~[destroy or]~~ alter ***or obliterate*** the identification number or mark of a vehicle or part ~~[of]~~ ***from*** a motor vehicle without written authorization from the Department, nor shall any person ***attach to or*** place or stamp ***upon a vehicle or the parts thereof*** any serial, motor or other number or mark ~~[upon a vehicle or the parts thereof]~~ except one assigned thereto by the Department.

2. This section does not prohibit the restoration by an owner of the original vehicle identification number or mark when the restoration is authorized by the Department, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.

3. The Department shall assign serial numbers to all homemade vehicles, and the serial numbers must be placed:

(a) If an open trailer, on the left-hand side of the tongue of the trailer.

(b) If an enclosed vehicle, on the pillar post for the left-hand door hinge ~~[,]~~ or **,** if such placement is not appropriate, then on the left-hand side of the fire wall, under the hood.

4. Any person who violates a provision of subsection 1 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 $25,000.

Assemblyman Manendo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 193.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 361.

AN ACT relating to crimes; establishing the requirements for determining whether a person is insane for purposes of the plea of not guilty by reason of insanity and for the insanity defense; authorizing a plea and verdict of guilty but mentally ill under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 1995, the Legislature enacted Senate Bill No. 314 which abolished the insanity defense in criminal cases and instead authorized a plea of guilty but mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of Senate Bill No. 314 and ruled that the federal and state constitutions require the State to provide to criminal defendants the option of raising an insanity defense for crimes that require an element of intent. (*Finger v. State*, 117 Nev. 548 (2001)) Based on this reasoning and because the Court did not believe that the Legislature would wish to preserve the plea of guilty but mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its entirety and reinstated the insanity defense as it existed before Senate Bill No. 314. (*Finger***,** 117 Nev. at 575) In response to *Finger***,** the Legislature enacted legislation in 2003, Assembly Bill No. 156, which statutorily abolished the plea of guilty but mentally ill and reinstated the insanity defense.

Section 4 of this bill reinstates the plea of guilty but mentally ill as an additional plea. Section 4 also provides that a defendant who pleads guilty but mentally ill bears the burden of establishing his mental illness by a preponderance of the evidence and that generally such a defendant is subject to the same penalties and procedures as a defendant who pleads guilty. (NRS 174.035)

Section 10 of this bill authorizes the verdict of guilty but mentally ill. Specifically, section 10 authorizes a judge or jury to find a defendant guilty but mentally ill if the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has established that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for purposes of the defense of insanity. Generally, a defendant who is found guilty but mentally ill is subject to the same penalties and procedures as a defendant who is found guilty.

Section 17 of this bill provides the types of sentences a court may impose upon a defendant who pleads or is found guilty but mentally ill. Regardless of whether a defendant is mentally ill at the time of sentencing, the court is required to impose any sentence available to the court for a defendant who pleads or is found guilty of the same offense. However, if the defendant is mentally ill at the time of sentencing **[**,**]** **and the sentence includes a term of confinement,** the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is ~~[available]~~ **medically indicated** for his mental illness during his confinement . ~~[or probation.]~~ This bill contains many of the same provisions that were included in Senate Bill No. 314 of the 1995 Legislative

Session, as well as many new sections that were included to provide for the plea and verdict of guilty but mentally ill.

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove ~~[:]~~ **that he was in a delusional state at the time of the alleged crime and due to that delusional state, he either:** (1) ~~[his insanity at the time of the alleged crime by proving that he]~~ did not understand the nature or ~~[quality]~~ **capacity** of his act ; or ~~[understand]~~ **(2) did not appreciate** that his act was wrong, meaning that the act is not authorized by law . ~~[; and (2) that if the facts, as believed by the defendant at the time of the offense, were true, the facts would justify the commission of the offense.]~~ (*Finger*, 117 Nev. at 576) This standard for establishing insanity is commonly referred to as the "M'Naghten Rule." The Nevada Supreme Court has recognized that the Legislature may determine that legal insanity be proven by the defendant by any one of the established standards, including by the M'Naghten Rule. (*Finger***,** 117 Nev. at 575) Section 4 of this bill codifies the M'Naghten Rule, as stated above, as the standard for establishing insanity for purposes of the insanity defense. (NRS 174.035)

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

Section 1. NRS 169.195 is hereby amended to read as follows:

169.195 1. "Trial" means that portion of a criminal action which:

(a) If a jury is used, begins with the impaneling of the jury and ends with the return of the verdict, both inclusive.

(b) If no jury is used, begins with the opening statement, or if there is no opening statement, when the first witness is sworn, and ends with the closing argument or upon submission of the cause to the court without argument, both inclusive.

2. "Trial" does not include any proceeding had upon a plea of guilty ***or guilty but mentally ill*** to determine the degree of guilt or to fix the punishment.

Sec. 2. NRS 173.035 is hereby amended to read as follows:

173.035 1. An information may be filed against any person for any offense when the person:

(a) Has had a preliminary examination as provided by law before a justice of the peace, or other examining officer or magistrate, and has been bound over to appear at the court having jurisdiction; or

(b) Has waived his right to a preliminary examination.

2. If, however, upon the preliminary examination the accused has been discharged, or the affidavit or complaint upon which the examination has been held has not been delivered to the clerk of the proper court, the Attorney General when acting pursuant to a specific statute or the district attorney may, upon affidavit of any person who has knowledge of the commission of an offense, and who is a competent witness to testify in the case, setting forth the offense and the name of the person or persons charged with the

commission thereof, upon being furnished with the names of the witnesses for the prosecution, by leave of the court first had, file an information, and process must forthwith be issued thereon. The affidavit need not be filed in cases where the defendant has waived a preliminary examination, or upon a preliminary examination has been bound over to appear at the court having jurisdiction.

3. The information must be filed within 15 days after the holding or waiver of the preliminary examination. Each information must set forth the crime committed according to the facts.

4. If, with the consent of the prosecuting attorney, a defendant waives his right to a preliminary examination in accordance with an agreement by the defendant to plead guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or ***to*** at least one ***,*** but not all, of the initial charges, the information filed against the defendant pursuant to this section may contain only the offense or offenses to which the defendant has agreed to enter a plea of guilty ***, guilty but mentally ill*** or nolo contendere. If, for any reason, the agreement is rejected by the district court or withdrawn by the defendant, the prosecuting attorney may file an amended information charging all of the offenses which were in the criminal complaint upon which the preliminary examination was waived. The defendant must then be arraigned in accordance with the amended information.

Sec. 3. NRS 173.125 is hereby amended to read as follows:

173.125 The prosecution is not required to elect between the different offenses or counts set forth in the indictment or information, and a plea of guilty ***or guilty but mentally ill*** to one or more offenses charged in the indictment or information does not preclude prosecution for the other offenses.

Sec. 4. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty ***, guilty but mentally ill*** or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty ~~[.]~~ ***or guilty but mentally ill.***

2. If a plea of guilty ***or guilty but mentally ill*** is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty ***or guilty but mentally ill*** is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty ***, guilty but mentally ill*** or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. ***A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty***

but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish [~~his insanity~~] by a preponderance of the evidence [~~.~~

~~5.~~] ***that:***

(a) Due to [~~his insanity, he could not understand~~] ***a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and***

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and [~~consequences~~] ***capacity of his*** [~~conduct~~] ***act; or***

(2) Appreciate that his conduct was wrong, meaning not authorized by law . [~~; and~~

~~(b) If the facts, as believed by the defendant at the time of the offense, were true, the facts would justify the commission of the offense.~~]

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty ***or guilty but mentally ill*** or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

[~~6.~~] ***7.*** A defendant may not enter a plea of guilty ***or guilty but mentally ill*** pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 5. NRS 174.055 is hereby amended to read as follows:

174.055 In [~~the~~] ***a*** justice court, if the defendant pleads guilty [~~,~~] ***or guilty but mentally ill,*** the court may, before entering such a plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed. If it appears to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail or to answer any indictment that may be found against him or any information which may be filed by the district attorney.

Sec. 6. NRS 174.061 is hereby amended to read as follows:

174.061 1. If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the agreement:

(a) Is void if the defendant's testimony is false.

(b) Must be in writing and include a statement that the agreement is void if the defendant's testimony is false.

2. A prosecuting attorney shall not enter into an agreement with a defendant which:

(a) Limits the testimony of the defendant to a predetermined formula.

(b) Is contingent on the testimony of the defendant contributing to a specified conclusion.

Sec. 7. NRS 174.063 is hereby amended to read as follows:

174.063 1. If a plea of guilty ***or guilty but mentally ill*** is made in a written plea agreement, the agreement must be substantially in the following form:

Case No. .....
Dept. No. .....

IN THE ..... JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF.....,

The State of Nevada ***,***
PLAINTIFF,
v.
(Name of defendant) ***,***
DEFENDANT.

GUILTY ***OR GUILTY BUT MENTALLY ILL*** PLEA AGREEMENT

I hereby agree to plead guilty ***or guilty but mentally ill*** to: (List charges to which defendant is pleading guilty ~~[),]~~ ***or guilty but mentally ill),*** as more fully alleged in the charging document attached hereto as Exhibit 1.

My decision to plead guilty ***or guilty but mentally ill*** is based upon the plea agreement in this case which is as follows:

(State the terms of the agreement.)

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty ***or guilty but mentally ill*** I admit the facts which support all the elements of the offenses to which I now plead as set forth in Exhibit 1.

I understand that as a consequence of my plea of guilty ***or guilty but mentally ill*** I may be imprisoned for a period of not more than (maximum term of imprisonment) and that I (may or will) be fined up to (maximum

amount of fine). I understand that the law requires me to pay an administrative assessment fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty ***or guilty but mentally ill*** and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses ~~[related]~~ ***relating*** to my extradition, if any.

I understand that I (am or am not) eligible for probation for the offense to which I am pleading guilty ~~[.]~~ ***or guilty but mentally ill.*** (I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge, or I understand that I must serve a mandatory minimum term of (term of imprisonment) or pay a minimum mandatory fine of (amount of fine) or serve a mandatory minimum term (term of imprisonment) and pay a minimum mandatory fine of (amount of fine).)

I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively.

I understand that information regarding charges not filed, dismissed charges or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

I have not been promised or guaranteed any particular sentence by anyone. I know that my sentence is to be determined by the court within the limits prescribed by statute. I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the court, the court is not obligated to accept the recommendation.

I understand that the Division of Parole and Probation of the Department of Public Safety may or will prepare a report for the sentencing judge before sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. I understand that this report may contain hearsay information regarding my background and criminal history. My attorney (if represented by counsel) and I will each have the opportunity to comment on the information contained in the report at the time of sentencing.

WAIVER OF RIGHTS

By entering my plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** I understand that I have waived the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or

retained. At trial, the State would bear the burden of proving beyond a reasonable doubt each element of the offense charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

I have discussed the elements of all the original charges against me with my attorney (if represented by counsel) and I understand the nature of these charges against me.

I understand that the State would have to prove each element of the charge against me at trial.

I have discussed with my attorney (if represented by counsel) any possible defenses and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights and waiver of rights have been thoroughly explained to me by my attorney (if represented by counsel).

I believe that pleading guilty ***or guilty but mentally ill*** and accepting this plea bargain is in my best interest and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney (if represented by counsel) and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

My attorney (if represented by counsel) has answered all my questions regarding this guilty ***or guilty but mentally ill*** plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

Dated: This ..... day of the month of ……. of the year …….

.....

Defendant

Agreed to on this ..... day of the month of ……. of the year …….

....

Deputy District Attorney

2. If the defendant is represented by counsel, the written plea agreement must also include a certificate of counsel that is substantially in the following form:

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the defendant the allegations contained in the charges to which guilty ***or guilty but mentally ill*** pleas are being entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas of guilty ***or guilty but mentally ill*** offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant and are in the best interest of the defendant.

4. To the best of my knowledge and belief, the defendant:

(a) Is competent and understands the charges and the consequences of pleading guilty ***or guilty but mentally ill*** as provided in this agreement.

(b) Executed this agreement and will enter all guilty ***or guilty but mentally ill*** pleas pursuant hereto voluntarily.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

Dated: This ..... day of the month of ……. of the year …….

....
Attorney for defendant.

Sec. 8. NRS 174.065 is hereby amended to read as follows:

174.065 Except as otherwise provided in NRS 174.061:

1. On a plea of guilty ***or guilty but mentally ill*** to an information or indictment accusing a defendant of a crime divided into degrees, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify the degree, and in such event the defendant shall not be punished for a higher degree than that specified in the plea.

2. On a plea of guilty ***or guilty but mentally ill*** to an indictment or information for murder of the first degree, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify a punishment less than death. The specified punishment, or any lesser punishment, may be imposed by a single judge.

Sec. 9. NRS 174.075 is hereby amended to read as follows:

174.075 1. Pleadings in criminal proceedings are the indictment, the information and, in justice court, the complaint, and the pleas of guilty, ***guilty but mentally ill,*** not guilty ***, not guilty by reason of insanity*** and nolo contendere.

2. All other pleas, ~~[and]~~ demurrers and motions to quash are abolished, and defenses and objections raised before trial which could have been raised by one or more of them may be raised only by motion to dismiss or to grant appropriate relief, as provided in this title.

Sec. 10. Chapter 175 of NRS is hereby amended by adding thereto a new section to read as follows:

1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that ~~[:~~

~~(1) His mental illness prevented him, at the time of the offense, from understanding the nature and consequences of his conductor that his conduct was wrong, meaning not authorized by law; and~~

~~(2) If the facts, as believed by the defendant at the time of the offense, were true, the facts would justify the commission of the offense.]~~ ***he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.***

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 11. NRS 175.101 is hereby amended to read as follows:

175.101 If by reason of absence from the judicial district, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of ~~[guilt,]~~ ***guilty or guilty but mentally ill,*** any other judge regularly sitting in or assigned to the court may perform those duties ***,*** ~~[;]~~ but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

Sec. 12. NRS 175.282 is hereby amended to read as follows:

175.282 If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the court shall:

1. After excising any portion it deems irrelevant or prejudicial, permit the jury to inspect the agreement;

2. If the defendant who is testifying has not entered his plea or been sentenced pursuant to the agreement, instruct the jury regarding the possible

related pressures on the defendant by providing the jury with an appropriate cautionary instruction; and

3. Allow the defense counsel to cross-examine fully the defendant who is testifying concerning the agreement.

Sec. 13. NRS 175.381 is hereby amended to read as follows:

175.381 1. If, at any time after the evidence on either side is closed, the court deems the evidence insufficient to warrant a conviction, it may advise the jury to acquit the defendant, but the jury is not bound by such advice.

2. The court may, on a motion of a defendant or on its own motion, which is made after the jury returns a verdict of guilty ~~[,]~~ ***or guilty but mentally ill,*** set aside the verdict and enter a judgment of acquittal if the evidence is insufficient to sustain a conviction. The motion for a judgment of acquittal must be made within 7 days after the jury is discharged or within such further time as the court may fix during that period.

3. If a motion for a judgment of acquittal after a verdict of guilty ***or guilty but mentally ill*** pursuant to this section is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed. The court shall specify the grounds for that determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial is granted conditionally and the judgment is reversed on appeal, the new trial must proceed unless the appellate court has otherwise ordered. If the motion is denied conditionally, the defendant on appeal may assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings must be in accordance with the order of the appellate court.

Sec. 14. NRS 175.501 is hereby amended to read as follows:

175.501 The defendant may be found guilty ***or guilty but mentally ill*** of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense.

Sec. 15. NRS 175.547 is hereby amended to read as follows:

175.547 1. In any case in which a defendant pleads or is found guilty ***or guilty but mentally ill*** of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. The court shall enter its finding in the record.

5. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

Sec. 16. NRS 175.552 is hereby amended to read as follows:

175.552 1. Except as otherwise provided in subsection 2, in every case in which there is a finding that a defendant is guilty ***or guilty but mentally ill*** of murder of the first degree, whether or not the death penalty is sought, the court shall conduct a separate penalty hearing. The separate penalty hearing must be conducted as follows:

(a) If the finding is made by a jury, the separate penalty hearing must be conducted in the trial court before the trial jury, as soon as practicable.

(b) If the finding is made upon a plea of guilty ***or guilty but mentally ill*** or a trial without a jury and the death penalty is sought, the separate penalty hearing must be conducted before a jury impaneled for that purpose, as soon as practicable.

(c) If the finding is made upon a plea of guilty ***or guilty but mentally ill*** or a trial without a jury and the death penalty is not sought, the separate penalty hearing must be conducted ***as soon as practicable*** before the judge who conducted the trial or who accepted the plea **.** ~~[of guilty, as soon as practicable.]~~

2. In a case in which the death penalty is not sought or in which a court has made a finding that the defendant is mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the parties may by stipulation waive the separate penalty hearing required in subsection 1. When stipulating to such a waiver, the parties may also include an agreement to have the sentence, if any, imposed by the trial judge. Any stipulation pursuant to this subsection must be in writing and signed by the defendant, his attorney, if any, and the prosecuting attorney.

3. During the hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, defendant or victim and on any other matter which the court deems relevant to sentence, whether or not the evidence is ordinarily admissible. Evidence may be offered to refute hearsay matters. No evidence which was secured in violation of the Constitution of the United States or the Constitution of the State of Nevada may be introduced. The State may introduce evidence of additional aggravating circumstances as set forth in NRS 200.033, other than the aggravated nature of the offense itself, only if it has been disclosed to the defendant before the commencement of the penalty hearing.

4. In a case in which the death penalty is not sought or in which a court has found the defendant to be mentally retarded and has stricken the notice of

intent to seek the death penalty pursuant to NRS 174.098, the jury or the trial judge shall determine whether the defendant should be sentenced to life with the possibility of parole or life without the possibility of parole.

Sec. 17. Chapter 176 of NRS is hereby amended by adding a new section to read as follows:

1. If a defendant is found guilty but mentally ill pursuant to section 10 of this act or the court accepts his plea of guilty but mentally ill entered pursuant to NRS 174.035, and the court finds by a preponderance of the evidence that:

(a) The defendant is not mentally ill at the time of sentencing, the court shall impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; or

(b) The defendant is mentally ill at the time of sentencing, the court shall:

(1) Impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; and

(2) Include in that sentence an order that the defendant, during the period of his confinement or probation, be given or obtain such treatment as is ~~[available]~~ ***medically indicated for his mental illness .*** ~~[if the court determines that the relative risks and benefits of the available treatment are such that a reasonable person would consent to such treatment.]~~

2. ~~[The]~~ ***If the sentence of a defendant includes a period of confinement, the Department of Corrections shall provide any treatment ordered by a court pursuant to subsection 1*** ~~[.]~~ ***at a facility designated by the Department to provide such treatment. The Department shall separate such a person from the general population of the prison and shall not return the person to that population until a licensed psychiatrist or psychologist finds that the person is no longer mentally ill.***

Sec. 18. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
$5 to $49	$25
50 to 59	40
60 to 69	45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70
200 to 299	80
300 to 399	90

400 to 499 100
500 to 1,000 115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) Eighteen and one-half percent of the amount distributed to the Office of Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing judicial education.

(4) Sixty percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(5) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; and

(5) The Advisory Council for Prosecuting Attorneys.

9. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 19. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or ***guilty but mentally ill or*** is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the

fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; and

(d) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or

renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the

center will be used and the apportionment of fiscal responsibility for the center.

Sec. 20. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; and

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 21. NRS 176.062 is hereby amended to read as follows:

176.062 1. When a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a felony or gross misdemeanor, the judge shall include in the sentence the sum of $25 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment:

(a) Must not be deducted from any fine imposed by the judge;

(b) Must be taxed against the defendant in addition to the fine; and

(c) Must be stated separately on the court's docket.

3. The money collected for administrative assessments in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Five dollars for credit to a special account in the county general fund for the use of the district court.

(b) The remainder of each assessment to the State Controller.

4. The State Controller shall credit the money received pursuant to subsection 3 to a special account for the assistance of criminal justice in the State General Fund, and distribute the money from the account to the Attorney General as authorized by the Legislature. Any amount received in excess of the amount authorized by the Legislature for distribution must remain in the account.

Sec. 22. NRS 176.135 is hereby amended to read as follows:

176.135 1. Except as otherwise provided in this section and NRS 176.151, the Division shall make a presentence investigation and report to the court on each defendant who pleads guilty **, *guilty but mentally ill*** or nolo contendere to **,** or is found guilty ***or guilty but mentally ill*** of **,** a felony.

2. If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and

(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

3. If a defendant is convicted of a felony other than a sexual offense, the presentence investigation and report must be made before the imposition of sentence or the granting of probation unless:

(a) A sentence is fixed by a jury; or

(b) Such an investigation and report on the defendant has been made by the Division within the 5 years immediately preceding the date initially set for sentencing on the most recent offense.

4. Upon request of the court, the Division shall make presentence investigations and reports on defendants who plead guilty **, *guilty but mentally ill*** or nolo contendere to **,** or are found guilty ***or guilty but mentally ill*** of **,** gross misdemeanors.

Sec. 23. NRS 176.151 is hereby amended to read as follows:

176.151 1. If a defendant pleads guilty **, *guilty but mentally ill*** or nolo contendere to **,** or is found guilty ***or guilty but mentally ill*** of **,** one or more category E felonies, but no other felonies, the Division shall not make a

presentence investigation and report on the defendant pursuant to NRS 176.135, unless the Division has not made a presentence investigation and report on the defendant pursuant to NRS 176.135 within the 5 years immediately preceding the date initially set for sentencing on the category E felony or felonies and:

(a) The court requests a presentence investigation and report; or

(b) The prosecuting attorney possesses evidence that would support a decision by the court to deny probation to the defendant pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

2. If the Division does not make a presentence investigation and report on a defendant pursuant to subsection 1, the Division shall, not later than 45 days after the date on which the defendant is sentenced, make a general investigation and report on the defendant that contains:

(a) Any prior criminal record of the defendant;

(b) Information concerning the characteristics of the defendant, the circumstances affecting his behavior and the circumstances of his offense that may be helpful to persons responsible for the supervision or correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination and the extent of the information included in the report is solely at the discretion of the Division;

(d) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS that relate to the defendant and are made available pursuant to NRS 432B.290; and

(e) Any other information that the Division believes may be helpful to persons responsible for the supervision or correctional treatment of the defendant.

Sec. 24. NRS 176.165 is hereby amended to read as follows:

176.165 Except as otherwise provided in this section, a motion to withdraw a plea of guilty ***, guilty but mentally ill*** or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

Sec. 25. NRS 176A.255 is hereby amended to read as follows:

176A.255 1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, “eligible defendant” means a person who:

(a) Has not tendered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, or been found guilty ***or guilty but mentally ill*** of, an offense that is a misdemeanor;

(b) Appears to suffer from mental illness or to be mentally retarded; and

(c) Would benefit from assignment to a program established pursuant to NRS 176A.250.

Sec. 26. NRS 176A.260 is hereby amended to read as follows:

176A.260 1. Except as otherwise provided in subsection 2, if a defendant who suffers from mental illness or is mentally retarded tenders a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, or is found guilty ***or guilty but mentally ill*** of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose.

Sec. 27. NRS 177.015 is hereby amended to read as follows:

177.015 The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the State or the defendant:

(a) To the district court of the county from a final judgment of the justice court.

(b) To the Supreme Court from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial.

(c) To the Supreme Court from a determination of the district court about whether a defendant is mentally retarded that is made as a result of a hearing held pursuant to NRS 174.098. If the Supreme Court entertains the appeal, it shall enter an order staying the criminal proceedings against the defendant for such time as may be required.

2. The State may, upon good cause shown, appeal to the Supreme Court from a pretrial order of the district court granting or denying a motion to suppress evidence made pursuant to NRS 174.125. Notice of the appeal must be filed with the clerk of the district court within 2 judicial days and with the Clerk of the Supreme Court within 5 judicial days after the ruling by the district court. The clerk of the district court shall notify counsel for the defendant or, in the case of a defendant without counsel, the defendant within 2 judicial days after the filing of the notice of appeal. The Supreme Court may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained. If the Supreme Court entertains the appeal, or if it otherwise appears necessary, it may enter an order staying the trial for such time as may be required.

3. The defendant only may appeal from a final judgment or verdict in a criminal case.

4. Except as otherwise provided in subsection 3 of NRS 174.035, the defendant in a criminal case shall not appeal a final judgment or verdict resulting from a plea of guilty ***, guilty but mentally ill*** or nolo contendere that the defendant entered into voluntarily and with a full understanding of the nature of the charge and the consequences of the plea, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings. The Supreme Court may establish procedures to require the defendant to make a preliminary showing of the propriety of the appeal.

Sec. 28. NRS 177.075 is hereby amended to read as follows:

177.075 1. Except where appeal is automatic, an appeal from a district court to the Supreme Court is taken by filing a notice of appeal with the clerk of the district court. Bills of exception and assignments of error in cases governed by this chapter are abolished.

2. When a court imposes sentence upon a defendant who has not pleaded guilty ***or guilty but mentally ill*** and who is without counsel, the court shall advise the defendant of his right to appeal, and if he so requests, the clerk shall prepare and file forthwith a notice of appeal on his behalf.

3. A notice of appeal must be signed:

(a) By the appellant or appellant's attorney; or

(b) By the clerk if prepared by him.

Sec. 29. NRS 178.388 is hereby amended to read as follows:

178.388 1. Except as otherwise provided in this title, the defendant must be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence. A corporation may appear by counsel for all purposes.

2. In prosecutions for offenses not punishable by death:

(a) The defendant's voluntary absence after the trial has been commenced in his presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time he pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** but at the time of his sentencing is incarcerated in another jurisdiction, he may waive his right to be present at the sentencing proceedings and agree to be sentenced in this State in his absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer; and

(3) Signed and dated by his attorney after it has been signed by the defendant and notarized.

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of his applicable constitutional rights when he gave his consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication between the court and the defendant during the proceeding. If closed-circuit television is provided for, members of the news media may observe and record the proceeding from both locations unless the court specifically provides otherwise.

5. The defendant's presence is not required at the settling of jury instructions.

Sec. 30. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of

the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➥ and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty **, *guilty but mentally ill*** or nolo contendere to **,** the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 31. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a justice or judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the justice or judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the justice or judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a justice or judge from the exercise of office without salary if the justice or judge:

(a) Pleads guilty **,** ***guilty but mentally ill*** or no contest to a charge of; or

(b) Is found guilty ***or guilty but mentally ill*** of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the justice or judge must be paid his salary for the period of suspension.

3. The Commission may suspend a justice or judge from the exercise of office with salary if the Commission determines, pending a final determination in a judicial disciplinary proceeding, that the justice or judge poses a substantial threat of serious harm to the public or to the administration of justice.

4. A justice or judge suspended pursuant to this section may appeal the suspension to the Supreme Court for reconsideration of the order.

5. The Commission may suspend a justice or judge pursuant to this section only in accordance with its procedural rules.

Sec. 32. NRS 33.400 is hereby amended to read as follows:

33.400 1. In addition to any other remedy provided by law, the parent or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order against a person who is 18 years of age or older and who the parent or guardian reasonably believes has committed or is committing a crime involving:

(a) Physical or mental injury to the child of a nonaccidental nature; or

(b) Sexual abuse or sexual exploitation of the child.

2. If such an order on behalf of a child is granted, the court may direct the person who allegedly committed or is committing the crime to:

(a) Stay away from the home, school, business or place of employment of the child and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court **,** who may include, without limitation, a member of the family or the household of the child.

3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty ***or guilty but mentally ill*** during the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the child against whom the alleged crime was committed and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court **,** who may include, without limitation, a member of the family or the household of the child.

4. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

5. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

6. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

Sec. 33. NRS 33.440 is hereby amended to read as follows:

33.440 1. Upon the request of the parent or guardian of a child, the prosecuting attorney in any trial brought against a person for a crime described in subsection 1 of NRS 33.400 shall inform the parent or guardian of the final disposition of the case.

2. If the defendant is found guilty ***or guilty but mentally ill*** and the court issues an order or provides a condition of his sentence restricting the ability of the defendant to have contact with the child against whom the crime was committed or witnesses, the clerk of the court shall:

(a) Keep a record of the order or condition of the sentence; and

(b) Provide a certified copy of the order or condition of the sentence to the parent or guardian of the child and other persons named in the order.

Sec. 34. NRS 34.735 is hereby amended to read as follows:

34.735 A petition must be in substantially the following form, with appropriate modifications if the petition is filed in the Supreme Court:

Case No.

Dept. No.

IN THE ..... JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF .....

.....

Petitioner,

v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

.. ..

Respondent.

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General’s Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: .....
.....

2. Name and location of court which entered the judgment of conviction under attack: .....
.....

3. Date of judgment of conviction: .....

4. Case number: .....

5. (a) Length of sentence: .....
.....

(b) If sentence is death, state any date upon which execution is scheduled:

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes .... No ....

If "yes," list crime, case number and sentence being served at this time: .....
.....
.....

7. Nature of offense involved in conviction being challenged: .....
.....

8. What was your plea? (check one)

(a) Not guilty ....

(b) Guilty ....

(c) ***Guilty but mentally ill ...***

(d) Nolo contendere ....

9. If you entered a plea of guilty ***or guilty but mentally ill*** to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty ***or guilty but mentally ill*** was negotiated, give details: .....
.....
.....

10. If you were found guilty ***or guilty but mentally ill*** after a plea of not guilty, was the finding made by: (check one)

(a) Jury ....

(b) Judge without a jury ....

11. Did you testify at the trial? Yes .... No ....

12. Did you appeal from the judgment of conviction? Yes .... No ....

13. If you did appeal, answer the following:

(a) Name of court: .....

(b) Case number or citation: .....

(c) Result: .....

(d) Date of result: .....

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: .....
.....
.....

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes .... No ....

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: .....

(2) Nature of proceeding: .....

.....

.....

(3) Grounds raised: .....

.....

.....

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes .... No ....

(5) Result: .....

(6) Date of result: .....

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: .....

.....

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: .....

(2) Nature of proceeding: .....

(3) Grounds raised: .....

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes .... No ....

(5) Result: .....

(6) Date of result: .....

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: .....

.....

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes .... No ....

Citation or date of decision: .....

(2) Second petition, application or motion? Yes .... No .....

Citation or date of decision: .....

(3) Third or subsequent petitions, applications or motions? Yes .... No ....

Citation or date of decision: .....

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on

paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....

.....

.....

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: .....

.....

(b) The proceedings in which these grounds were raised: .....

.....

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.).....

.....

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....

.....

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....

.....

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes .... No ....

If yes, state what court and the case number: .....

.....

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: .....

.....

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes .... No ....

If yes, specify where and when it is to be served, if you know: .....

.....

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If

necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: .....

.....

Supporting FACTS (Tell your story briefly without citing cases or law.): .....

.....

.....

(b) Ground two:.....

.....

Supporting FACTS (Tell your story briefly without citing cases or law.):.....

.....

.....

(c) Ground three: .....

.....

Supporting FACTS (Tell your story briefly without citing cases or law.):.....

.....

.....

(d) Ground four: .....

.....

Supporting FACTS (Tell your story briefly without citing cases or law.): .....

.....

.....

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at ..... on the .... day of the month of .... of the year ....

.....
Signature of petitioner

.....
Address

.....
Signature of attorney (if any)

.....
Attorney for petitioner

.....
Address

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

.....
Petitioner

.....
Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, ..., hereby certify **,** pursuant to N.R.C.P. 5(b), that on this .... day of the month of .... of the year ...., I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

.....
Respondent prison or jail official

.....
Address

.....
Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

.....
District Attorney of County of Conviction

.....
Address

.....
Signature of Petitioner

Sec. 35. NRS 34.810 is hereby amended to read as follows:

34.810 1. The court shall dismiss a petition if the court determines that:

(a) The petitioner's conviction was upon a plea of guilty ***or guilty but mentally ill*** and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

(1) Presented to the trial court;

(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or

(3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence,

➥ unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different

grounds are alleged, the judge or justice finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:

(a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and

(b) Actual prejudice to the petitioner.

➥ The petitioner shall include in the petition all prior proceedings in which he challenged the same conviction or sentence.

4. The court may dismiss a petition that fails to include any prior proceedings of which the court has knowledge through the record of the court or through the pleadings submitted by the respondent.

Sec. 36. NRS 41B.070 is hereby amended to read as follows:

41B.070 "Convicted" and "conviction" mean a judgment based upon:

1. A plea of guilty ***, guilty but mentally ill*** or nolo contendere;

2. A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a jury or a court sitting without a jury;

3. An adjudication of delinquency or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court having jurisdiction over juveniles; or

4. Any other admission or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal action or a proceeding in a court having jurisdiction over juveniles.

Sec. 37. NRS 48.125 is hereby amended to read as follows:

48.125 1. Evidence of a plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** later withdrawn, or of an offer to plead guilty ***or guilty but mentally ill*** to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer.

2. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer.

Sec. 38. NRS 50.068 is hereby amended to read as follows:

50.068 1. A defendant is not incompetent to be a witness solely by reason of the fact that he enters into an agreement with the prosecuting attorney in which he agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for a recommendation of a reduced sentence.

2. The testimony of the defendant who is testifying may be admitted whether or not he has entered his plea or been sentenced pursuant to the agreement with the prosecuting attorney.

Sec. 39. NRS 51.295 is hereby amended to read as follows:

51.295 1. Evidence of a final judgment, entered after trial or upon a plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year ~~[,]~~ is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.

2. This section does not make admissible, when offered by the State in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

Sec. 40. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) Except as otherwise provided in this subsection, for the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) Except as otherwise provided in this subsection, for the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides more than 70 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470 every other week for the number of months required pursuant to paragraph (a) or (b) so long as the number of hours of counseling is not less than 6 hours per month. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

3. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

5. In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

6. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

7. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except

as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

8. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 41. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12

months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

3. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

5. In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

6. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

7. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

8. As used in this section:

(a) ”Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 42. NRS 202.270 is hereby amended to read as follows:

202.270 1. A person who destroys, or attempts to destroy, with dynamite, nitroglycerine, gunpowder or other high explosive, any dwelling house or other building, knowing or having reason to believe that a human being is therein at the time, is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

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

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

➥ in the discretion of the jury, or of the court upon a plea of guilty ~~[.]~~ ***or guilty but mentally ill.***

2. A person who conspires with others to commit the offense described in subsection 1 shall be punished in the same manner.

Sec. 43. NRS 202.885 is hereby amended to read as follows:

202.885 1. A person may not be prosecuted or convicted pursuant to NRS 202.882 unless a court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor for:

(a) The violent or sexual offense against the child; or

(b) Any other offense arising out of the same facts as the violent or sexual offense against the child.

2. For any violation of NRS 202.882, an indictment must be found or an information or complaint must be filed within 1 year after the date on which:

(a) A court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor as provided in subsection 1; or

(b) The violation is discovered,

➥ whichever occurs later.

3. For the purposes of this section:

(a) A court in "any other jurisdiction" includes, without limitation, a tribal court or a court of the United States or the Armed Forces of the United States.

(b) "Convicted" and "conviction" mean a judgment based upon:

(1) A plea of guilty ***, guilty but mentally ill*** or nolo contendere;

(2) A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a jury or a court sitting without a jury;

(3) An adjudication of delinquency or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court having jurisdiction over juveniles; or

(4) Any other admission or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal action or a proceeding in a court having jurisdiction over juveniles.

(c) A court "enters" a judgment of conviction against a person on the date on which guilt is admitted, adjudicated or found, whether or not:

(1) The court has imposed a sentence, a penalty or other sanction for the conviction; or

(2) The person has exercised any right to appeal the conviction.

(d) "Culpable actor" means a person who:

(1) Causes or perpetrates an unlawful act;

(2) Aids, abets, commands, counsels, encourages, hires, induces, procures or solicits another person to cause or perpetrate an unlawful act; or

(3) Is a principal in any degree, accessory before or after the fact, accomplice or conspirator to an unlawful act.

Sec. 44. NRS 207.016 is hereby amended to read as follows:

207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014 operates only to increase, not to reduce, the sentence otherwise provided by law for the principal crime.

2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is included in an information charging the primary offense, each previous conviction must be alleged in the accusatory pleading, but no such conviction may be alluded to on trial of the primary offense, nor may any allegation of the conviction be read in the presence of a jury trying the offense or a grand jury considering an indictment for the offense. A count pursuant to NRS 207.010, 207.012 or 207.014 may be separately filed after conviction of the primary offense, but if it is so filed, sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing.

3. If a defendant charged pursuant to NRS 207.010, 207.012 or 207.014 pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** the primary offense but denies any previous conviction charged, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the defendant. At such a hearing, the defendant may not challenge the validity of a previous conviction. The court shall impose sentence:

(a) Pursuant to NRS 207.010 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual criminality;

(b) Pursuant to NRS 207.012 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual felon; or

(c) Pursuant to NRS 207.014 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitually fraudulent felon.

4. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 limits the prosecution in introducing evidence of prior convictions for purposes of impeachment.

5. For the purposes of NRS 207.010, 207.012 and 207.014, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

6. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 prohibits a court from imposing an adjudication of habitual criminality, adjudication of habitual felon or adjudication of habitually fraudulent felon based upon a stipulation of the parties.

Sec. 45. NRS 207.193 is hereby amended to read as follows:

207.193 1. Except as otherwise provided in subsection 4, if a person is convicted of coercion or attempted coercion in violation of paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, not less than 72 hours before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. A person may stipulate that his offense was sexually motivated before a hearing held pursuant to subsection 1 or as part of an agreement to plead nolo contendere ***, guilty*** or guilty ~~[.]~~ ***but mentally ill.***

5. The court shall enter in the record:

(a) Its finding from a hearing held pursuant to subsection 1; or

(b) A stipulation made pursuant to subsection 4.

6. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

Sec. 46. NRS 212.189 is hereby amended to read as follows:

212.189 1. Except as otherwise provided in subsection 9, a prisoner who is in lawful custody or confinement, other than residential confinement, shall not knowingly:

(a) Store or stockpile any human excrement or bodily fluid;

(b) Sell, supply or provide any human excrement or bodily fluid to any other person;

(c) Buy, receive or acquire any human excrement or bodily fluid from any other person; or

(d) Use, propel, discharge, spread or conceal, or cause to be used, propelled, discharged, spread or concealed, any human excrement or bodily fluid:

(1) With the intent to have the excrement or bodily fluid come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs; or

(2) Under circumstances in which the excrement or bodily fluid is reasonably likely to come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs.

2. Except as otherwise provided in subsection 3, if a prisoner violates any provision of subsection 1, the prisoner is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. If a prisoner violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

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

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

4. A sentence imposed upon a prisoner pursuant to subsection 2 or 3:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was in lawful custody or confinement when he violated the provisions of subsection 1.

5. In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection 7; or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection 7.

6. The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

7. If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act must submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.

(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or any other person:

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee, the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.

(d) The results of the investigation conducted pursuant to subsection 6 and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

8. If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison, the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

9. The provisions of this section do not apply to a prisoner who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.

Sec. 47. NRS 244.3485 is hereby amended to read as follows:

244.3485 1. The board of county commissioners of each county shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in an unincorporated area of the county to obtain a license issued by the board before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the board of county commissioners in a form prescribed by the board.

(b) With his application a complete set of his fingerprints and written permission authorizing the board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The board of county commissioners shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The board of county commissioners may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

Sec. 48. NRS 244.3695 is hereby amended to read as follows:

244.3695 1. The board of county commissioners shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty ***or guilty but mentally ill*** of violating a county ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a county law enforcement agency may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the board of county commissioners.

Sec. 49. NRS 268.0974 is hereby amended to read as follows:

268.0974 1. The governing body of an incorporated city in this State, whether organized pursuant to general law or special charter shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in the incorporated city to obtain a license issued by the governing body before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the governing body of the incorporated city in a form prescribed by the governing body.

(b) With his application a complete set of his fingerprints and written permission authorizing the governing body of the incorporated city to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The governing body of the incorporated city shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The governing body of the incorporated city may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

Sec. 50. NRS 268.4085 is hereby amended to read as follows:

268.4085 1. The governing body of each city shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction

of a person who violated a city ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty ***or guilty but mentally ill*** of violating a city ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a law enforcement agency for the city may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a city ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the governing body of the city.

Sec. 51. NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date of discovery of the fraudulent activity by the Attorney General or more than 5 years after the fraudulent activity occurred, whichever is earlier. Within those limits, an action may be based upon fraudulent activity that occurred before October 1, 1999.

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty ***or guilty but mentally ill*** or a plea of guilty ***, guilty but mentally ill*** or nolo contendere, estops the person found guilty ***or guilty but mentally ill*** from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

Sec. 52. NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, ***guilty but mentally ill,*** nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is found guilty ***or guilty but mentally ill*** of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the

accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

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

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

Sec. 53. NRS 453.348 is hereby amended to read as follows:

453.348 In any proceeding brought under NRS 453.316, 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, any previous convictions of the offender for a felony relating to controlled substances must be alleged in the indictment or information charging the primary offense, but the conviction may not be alluded to on the trial of the primary offense nor may any evidence of the previous offense be produced in the presence of the jury except as otherwise prescribed by law. If the offender pleads guilty ***or guilty but mentally ill*** to **,** or is convicted of **,** the primary offense but denies any previous conviction charged, the court shall determine the issue after hearing all relevant evidence. A certified copy of a conviction of a felony is prima facie evidence of the conviction.

Sec. 54. NRS 453.575 is hereby amended to read as follows:

453.575 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of, any violation of this chapter and an analysis of a controlled substance or other substance or drug was performed in relation to his case, the court shall include in the sentence an

order that the defendant pay the sum of $60 as a fee for the analysis of the controlled substance or other substance or drug.

2. Except as otherwise provided in this subsection, any money collected for such an analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

3. The money collected pursuant to subsection 1 in any district, municipal or justice court must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

4. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for forensic services. The governing body of each city shall create in the city treasury a fund to be designated as the fund for forensic services. Upon receipt, the county or city treasurer, as appropriate, shall deposit any fee for the analyses of controlled substances or other substances or drugs in the fund. The money from such deposits must be accounted for separately within the fund.

5. Except as otherwise provided in subsection 6, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

6. In counties which do not receive forensic services under a contract with the State, the money deposited in the fund for forensic services pursuant to subsection 4 must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of controlled substances or other substances or drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

Sec. 55. NRS 454.358 is hereby amended to read as follows:

454.358 1. When a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of this chapter and an analysis of a dangerous drug was performed in relation to his case, the justice or judge shall include in the sentence the sum of $50 as a fee for the analysis of the dangerous drug.

2. The money collected for such an analysis must not be deducted from the fine imposed by the justice or judge, but must be taxed against the

defendant in addition to the fine. The money collected for such an analysis must be stated separately on the court's docket and must be included in the amount posted for bail. If the defendant is found not guilty or the charges are dropped, the money deposited with the court must be returned to the defendant.

3. The money collected pursuant to subsection 1 in municipal court must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

4. The money collected pursuant to subsection 1 in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

5. The board of county commissioners of each county shall by ordinance, before September 1, 1987, create in the county treasury a fund to be designated as the fund for forensic services. Upon receipt, the county treasurer shall deposit any fee for the analyses of dangerous drugs in the fund.

6. In counties which receive forensic services under a contract with the State, any money in the fund for forensic services must be paid monthly by the county treasurer to the State Treasurer for deposit in the State General Fund, after retaining 2 percent of the money to cover his administrative expenses.

7. In counties which do not receive forensic services under a contract with the State, money in the fund for forensic services must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of dangerous drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

Sec. 56. NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been cancelled, revoked or suspended is guilty of a misdemeanor.

2. Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:

(a) A violation of NRS 484.379, 484.3795 or 484.384;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➥ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than $500 nor more than $1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty**,** ***guilty but mentally ill*** or ~~[of]~~ nolo contendere to a lesser charge or for any other reason, unless in his judgment the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, the Department shall extend the period of the suspension for an additional like period.

(b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, the Department shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or cancelled for an indefinite period, the Department shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations imposed pursuant to this section must run consecutively.

Sec. 57. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379;

(3) Fine him not less than $400 nor more than $1,000; and

(4) If he is found to have a concentration of alcohol of 0.18 or more in his blood or breath, order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court shall:

(1) Sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine him not less than $750 nor more than $1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

➥ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) For a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. Unless a greater penalty is provided in NRS 484.37955, a person who has previously been convicted of:

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled

substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(d) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b) or (c),

➥ and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

3. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in paragraphs (a) to (d), inclusive, of subsection 2 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard for the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

5. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time

for which the offender is confined must consist of not less than 24 consecutive hours.

6. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560 or 485.330 must run consecutively.

7. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the Department within the time specified in the order,

➥ and the court shall notify the Department if the person fails to complete the assigned course within the specified time.

8. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

9. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation must be excluded.

10. As used in this section, unless the context otherwise requires:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

(2) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 58. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 59. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 60. NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

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

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 484.379 or 484.3795; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

Sec. 61. NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

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

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be

proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 484.379 or 484.3795; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

Sec. 62. NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

➥ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of NRS 484.379, 484.3795 or 484.37955, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend, at the defendant's expense, a meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct, in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

➥ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.

3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

Sec. 63. NRS 484.3798 is hereby amended to read as follows:

484.3798 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of NRS 484.379, 484.3795 or 484.37955 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by ~~[,]~~ or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

Sec. 64. NRS 484.3945 is hereby amended to read as follows:

484.3945 1. A person required to install a device pursuant to NRS 484.3943 shall not operate a motor vehicle without a device or tamper with the device.

2. A person who violates any provision of subsection 1:

(a) Must have his driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and

(b) Shall be:

(1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or

(2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than $500 nor more than $1,000.

➥ No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty ***, guilty but mentally ill*** or ~~[of]~~ nolo contendere to a lesser charge or for any other reason unless, in his judgment, the charge is not supported by probable cause or cannot be proved at trial.

Sec. 65. NRS 484.777 is hereby amended to read as follows:

484.777 1. The provisions of this chapter are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees.

2. Unless otherwise provided by specific statute, any local authority may enact by ordinance traffic regulations which cover the same subject matter as the various sections of this chapter if the provisions of the ordinance are not in conflict with this chapter. It may also enact by ordinance regulations requiring the registration and licensing of bicycles.

3. A local authority shall not enact an ordinance:

(a) Governing the registration of vehicles and the licensing of drivers;

(b) Governing the duties and obligations of persons involved in traffic accidents, other than the duties to stop, render aid and provide necessary information; or

(c) Providing a penalty for an offense for which the penalty prescribed by this chapter is greater than that imposed for a misdemeanor.

4. No person convicted or adjudged guilty ***or guilty but mentally ill*** of a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.

Sec. 66. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, “salvage vehicle” has the meaning ascribed to it in NRS 487.770.

Sec. 67. NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 68. NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 69. NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

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

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

Sec. 70. NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.420;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

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

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

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is

obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

Sec. 71. NRS 488.427 is hereby amended to read as follows:

488.427 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or 488.425 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct as set forth in NRS 488.420 or 488.425 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. The facts concerning a prior violation of NRS 488.420 or 488.425 must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing.

3. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 488.410 against a person previously convicted of violating NRS 488.420 or 488.425 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable

cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 72. NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

Sec. 73. NRS 489.421 is hereby amended to read as follows:

489.421 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Revocation or denial of a license issued pursuant to this chapter or an equivalent license in any other state, territory or country.

2. Failure of the licensee to maintain any other license required by any political subdivision of this State.

3. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice.

4. Failure to take the corrective action required in a notice of violation issued pursuant to NRS 489.291.

5. Failure or refusing to permit access by the Administrator to documentary materials set forth in NRS 489.231.

6. Disregarding or violating any order of the Administrator, any agreement with the Division, or any provision of this chapter or any regulation adopted under it.

7. Conviction of a misdemeanor for violation of any of the provisions of this chapter.

8. Conviction of or entering a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony relating to the position for which the applicant has applied or the licensee has been licensed pursuant to this chapter; or

(b) A crime of moral turpitude in this State or any other state, territory or country.

9. Any other conduct that constitutes deceitful, fraudulent or dishonest dealing.

Sec. 74. NRS 597.1143 is hereby amended to read as follows:

597.1143 1. A supplier shall not terminate, fail to renew or substantially change the terms of a dealer agreement without good cause.

2. Except as otherwise provided in this section, a supplier may terminate or refuse to renew a dealer agreement for good cause if the supplier provides to the dealer a written notice setting forth the reasons for the termination or nonrenewal of the dealer agreement at least 180 days before the termination or nonrenewal of the dealer agreement.

3. A supplier shall include in the written notice required by subsection 2 an explanation of the deficiencies of the dealer and the manner in which those deficiencies must be corrected. If the dealer corrects the deficiencies set forth in the notice within 60 days after he receives the notice, the supplier shall not terminate or fail to renew the dealer agreement for the reasons set forth in the notice.

4. A supplier shall not terminate or refuse to renew a dealer agreement based solely on the failure of the dealer to comply with the requirements of the dealer agreement concerning the share of the market the dealer was required to obtain unless the supplier has, for not less than 1 year, provided assistance to the dealer in the dealer’s effort to obtain the required share of the market.

5. A supplier is not required to comply with the provisions of subsections 2 and 3 if the supplier terminates or refuses to renew a dealer agreement for any reason set forth in paragraphs (b) to (i), inclusive, of subsection 6.

6. As used in this section, "good cause" means:

(a) A dealer fails to comply with the terms of a dealer agreement, if the terms are not substantially different from the terms required for other dealers in this State or any other state;

(b) A closeout or sale of a substantial part of the business assets of a dealer or a commencement of the dissolution or liquidation of the business assets of the dealer;

(c) A dealer changes its principal place of business or adds other places of business without the prior approval of the supplier, which may not be unreasonably withheld;

(d) A dealer substantially defaults under a chattel mortgage or other security agreement between the dealer and the supplier;

(e) A guarantee of a present or future obligation of a dealer to the supplier is revoked or discontinued;

(f) A dealer fails to operate in the normal course of business for at least 7 consecutive days;

(g) A dealer abandons the dealership;

(h) A dealer pleads guilty ***or guilty but mentally ill*** to **,** or is convicted of **,** a felony affecting the business relationship between the dealer and supplier; or

(i) A dealer transfers a financial interest in the dealership, a person who has a substantial financial interest in the ownership or control of the dealership dies or withdraws from the dealership, or the financial interest of a partner or major shareholder in the dealership is substantially reduced.

➥ For the purposes of this section, good cause does not exist if the supplier consents to any action described in this section.

Sec. 75. NRS 597.155 is hereby amended to read as follows:

597.155 1. Except as otherwise provided in subsection 2, a supplier must, at least 90 days before he terminates or refuses to continue any franchise with a wholesaler or causes a wholesaler to resign from any franchise, send a notice by certified mail, return receipt requested, to the wholesaler. The notice must include:

(a) The reason for the proposed action and a description of any failure of the wholesaler to comply with the terms, provisions and conditions of the franchise alleged by the supplier pursuant to NRS 597.160; and

(b) A statement that the wholesaler may correct any such failure within the period prescribed in NRS 597.160.

2. Any action taken by a supplier pursuant to subsection 1 becomes effective on the date the wholesaler receives the notice required pursuant to subsection 1 if the wholesaler:

(a) Has had his license to sell alcoholic beverages issued pursuant to state or federal law revoked or suspended for more than 31 days;

(b) Is insolvent pursuant to 11 U.S.C. § 101;

(c) Has had an order for relief entered against him pursuant to 11 U.S.C. §§ 701 et seq.;

(d) Has had his ability to conduct business substantially affected by a liquidation or dissolution;

(e) Or any other person who has a financial interest in the wholesaler of not less than 10 percent and is active in the management of the wholesaler has been convicted of **,** or has pleaded guilty ***or guilty but mentally ill*** to **,** a felony and the supplier determines that the conviction or plea substantially and adversely affects the ability of the wholesaler to sell the products of the supplier;

(f) Has committed fraud or has made a material misrepresentation in his dealings with the supplier or the products of the supplier;

(g) Has sold alcoholic beverages which the wholesaler received from the supplier to:

(1) A retailer who the wholesaler knows or should know does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler; or

(2) Any person who the wholesaler knows or should know sells or supplies alcoholic beverages to any retailer who does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler;

(h) Has failed to pay for any product ordered and delivered pursuant to the provisions of an agreement between the supplier and wholesaler within 7 business days after the supplier sends to the wholesaler a written notice which includes a statement that he has failed to pay for the product and a demand for immediate payment;

(i) Has made an assignment for the benefit of creditors or a similar disposition of substantially all the assets of his franchise;

(j) Or any other person who has a financial interest in the wholesaler has:

(1) Transferred or attempted to transfer the assets of the franchise, voting stock of the wholesaler or voting stock of any parent corporation of the wholesaler; or

(2) Changed or attempted to change the beneficial ownership or control of any such entity,

➥ unless the wholesaler first notified the supplier in writing and the supplier has not unreasonably withheld his approval; or

(k) Discontinues selling the products of the supplier, unless:

(1) The discontinuance is a result of an accident which the wholesaler was unable to prevent;

(2) The wholesaler has, if applicable, taken action to correct the condition which caused the accident; and

(3) The wholesaler has notified the supplier of the accident if he has discontinued selling the products of the supplier for more than 10 days.

Sec. 76. NRS 597.818 is hereby amended to read as follows:

597.818 1. A person who violates any provision of NRS 597.814 is guilty of a misdemeanor.

2. If a person is found guilty ***or guilty but mentally ill*** of, or has pleaded guilty ***, guilty but mentally ill*** or nolo contendere to, violating any provision of NRS 597.814, his telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

Sec. 77. NRS 616A.250 is hereby amended to read as follows:

616A.250 "Incarcerated" means confined in:

1. Any local detention facility, county jail, state prison, reformatory or other correctional facility as a result of a conviction or a plea of guilty ***, guilty but mentally ill*** or nolo contendere in a criminal proceeding; or

2. Any institution or facility for the mentally ill as a result of a plea of not guilty by reason of insanity in a criminal proceeding,

➥ in this State, another state or a foreign country.

Sec. 78. NRS 623.270 is hereby amended to read as follows:

623.270 1. The Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand him, fine him not more than $10,000, suspend or revoke his license, impose the costs of investigation and prosecution upon him or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or ***found guilty or guilty but mentally ill*** by a court of justice of any fraud, deceit or concealment of a material fact in his professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

(1) The practice of architecture or residential design; or

(2) His practice as a registered interior designer.

(d) The holder of a certificate has affixed his signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his responsible control, or has permitted the use of his name to assist any person who is not a registered architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

(1) Architecture or residential design; or

(2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

(a) Restriction on the scope of professional practice.

(b) Peer review.

(c) Required education or counseling.

(d) Payment of restitution to each person who suffered harm or loss.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer,

➥ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

(1) The profession of architecture or residential design; or

(2) Practice as a registered interior designer.

Sec. 79. NRS 624.165 is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this State, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty ***and guilty but mentally ill*** pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(a) Misapplies money under the circumstances described in NRS 205.310;

(b) Obtains money, property or labor by false pretense as described in NRS 205.380;

(c) Receives payments and fails to state his own true name, or states a false name, contractor's license number, address or telephone number of the person offering a service;

(d) Diverts money or commits any act of theft, forgery, fraud or embezzlement, in connection with a construction project, that violates a criminal statute of this State;

(e) Acts as a contractor without:

(1) Possessing a contractor's license issued pursuant to this chapter; or

(2) Possessing any other license required by this State or a political subdivision of this State;

(f) In any report relating to a contract for a public work, submits false information concerning a payroll to a public officer or agency; or

(g) Otherwise fails to disclose a material fact.

Sec. 80. NRS 624.265 is hereby amended to read as follows:

624.265 1. An applicant for a contractor's license or a licensed contractor and each officer, director, partner and associate thereof must possess good character. Lack of character may be established by showing that the applicant or licensed contractor, or any officer, director, partner or associate thereof, has:

(a) Committed any act which would be grounds for the denial, suspension or revocation of a contractor's license;

(b) A bad reputation for honesty and integrity;

(c) Entered a plea of ***guilty, guilty but mentally ill or*** nolo contendere [or guilty] to, been found guilty ***or guilty but mentally ill*** of **,** or been convicted, in this State or any other jurisdiction, of a crime arising out of, in connection with or related to the activities of such person in such a manner as to demonstrate his unfitness to act as a contractor, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal; or

(d) Had a license revoked or suspended for reasons that would preclude the granting or renewal of a license for which the application has been made.

2. Upon the request of the Board, an applicant for a contractor's license, and any officer, director, partner or associate of the applicant, must submit to the Board completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of his fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The fingerprint cards and

authorization form submitted must be those that are provided to the applicant by the Board. The applicant's fingerprints may be taken by an agent of the Board or an agency of law enforcement.

3. The Board shall keep the results of the investigation confidential and not subject to inspection by the general public.

4. The Board shall establish by regulation the fee for processing the fingerprints to be paid by the applicant. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

5. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty ***and guilty but mentally ill*** pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of a licensee or an applicant for a contractor's license.

Sec. 81. NRS 632.320 is hereby amended to read as follows:

632.320 The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that he:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

2. Is guilty of any offense:

(a) Involving moral turpitude; or

(b) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

➥ in which case the record of conviction is conclusive evidence thereof.

3. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

5. Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his ability to conduct the practice authorized by his license or certificate.

6. Is mentally incompetent.

7. Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(a) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(b) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(c) Impersonating another licensed practitioner or holder of a certificate.

(d) Permitting or allowing another person to use his license or certificate to practice as a licensed practical nurse, registered nurse or nursing assistant.

(e) Repeated malpractice, which may be evidenced by claims of malpractice settled against him.

(f) Physical, verbal or psychological abuse of a patient.

(g) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

8. Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

9. Is guilty of aiding or abetting any person in a violation of this chapter.

10. Has falsified an entry on a patient's medical chart concerning a controlled substance.

11. Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

12. Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or has committed an act in another state which would constitute a violation of this chapter.

13. Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

14. Has willfully failed to comply with a regulation, subpoena or order of the Board.

➥ For the purposes of this section, a plea or verdict of guilty ***or guilty but mentally ill*** or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

Sec. 82. NRS 639.006 is hereby amended to read as follows:

639.006 "Conviction" means a plea or verdict of guilty ***or guilty but mentally ill*** or a conviction following a plea of nolo contendere to a charge of a felony, any offense involving moral turpitude or any violation of the provisions of this chapter or chapter 453 or 454 of NRS.

Sec. 83. NRS 639.500 is hereby amended to read as follows:

639.500 1. In addition to the requirements for an application set forth in NRS 639.100, each applicant for a license to engage in wholesale distribution shall submit with his application a complete set of his fingerprints and written permission authorizing the Board to forward the

fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. If the applicant is a:

(a) Natural person, that person must submit his fingerprints.

(b) Partnership, each partner must submit his fingerprints.

(c) Corporation, each officer and director of the corporation must submit his fingerprints.

(d) Sole proprietorship, that sole proprietor must submit his fingerprints.

2. In addition to the requirements of subsection 1, the applicant shall submit with his application a list containing each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the applicant. The Board may require any person on the applicant's list to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the applicant as a licensed wholesaler. The fingerprints must be submitted with written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of an applicant who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. The Board may issue a provisional license to an applicant pending receipt of the reports from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified.

4. An applicant who is issued a license by the Board shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or offense involving moral turpitude or related to the qualifications, functions or duties of that person in connection with the operation of the wholesaler.

5. The Board shall not issue a license to an applicant if the requirements of this section are not satisfied.

Sec. 84. NRS 639.505 is hereby amended to read as follows:

639.505 1. On an annual basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the wholesaler who is employed by or otherwise contracts with the wholesaler for the provision of services in connection with the operation of the licensee as a wholesaler. Any changes to the list must be submitted to the Board not later than 30 days after the change is made.

2. If a person identified on an updated list of the wholesaler is employed by or otherwise contracts with the wholesaler after the wholesaler is issued a license and that person did not submit his fingerprints pursuant to NRS 639.500, the Board may require that person to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the licensee as a wholesaler. The fingerprints must be submitted within 30 days after being requested to do so by the Board and must include written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of a wholesaler who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. A wholesaler shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or offense involving moral turpitude or related to qualifications, functions or duties of that person in connection with the operation of the wholesaler.

Sec. 85. NRS 645.330 is hereby amended to read as follows:

645.330 1. Except as otherwise provided by a specific statute, the Division may approve an application for a license for a person who meets all the following requirements:

(a) Has a good reputation for honesty, trustworthiness and integrity and who offers proof of those qualifications satisfactory to the Division.

(b) Has not made a false statement of material fact on his application.

(c) Is competent to transact the business of a real estate broker, broker-salesman or salesman in a manner which will safeguard the interests of the public.

(d) Has passed the examination.

(e) Has submitted all information required to complete the application.

2. The Division:

(a) May deny a license to any person who has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in a real estate business without a license, possessing for the purpose of sale any controlled substance or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or elsewhere; and

(b) Shall not issue a license to such a person until at least 3 years after:

(1) The person pays any fine or restitution ordered by the court; or

(2) The expiration of the period of the person's parole, probation or sentence,

➥ whichever is later.

3. Suspension or revocation of a license pursuant to this chapter or any prior revocation or current suspension in this or any other state, district or territory of the United States or any foreign country before the date of the application is grounds for refusal to grant a license.

4. Except as otherwise provided in NRS 645.332, a person may not be licensed as a real estate broker unless he has been actively engaged as a full-time licensed real estate broker-salesman or salesman in this State, or actively engaged as a full-time licensed real estate broker, broker-salesman or salesman in another state or the District of Columbia, for at least 2 of the 4 years immediately preceding the issuance of a broker's license.

Sec. 86. NRS 645.350 is hereby amended to read as follows:

645.350 1. An application for a license as a real estate broker, broker-salesman or salesman must be submitted in writing to the Division upon blanks prepared or furnished by the Division.

2. Every application for a real estate broker's, broker-salesman's or salesman's license must set forth the following information:

(a) The name, age and address of the applicant. If the applicant is a partnership or an association which is applying to do business as a real estate broker, the application must contain the name and address of each member thereof. If the application is for a corporation which is applying to do business as a real estate salesman, real estate broker-salesman or real estate broker, the application must contain the name and address of each officer and director thereof. If the applicant is a limited-liability company which is applying to do business as a real estate broker, the company's articles of organization must designate a manager, and the name and address of the manager and each member must be listed in the application.

(b) In the case of a broker, the name under which the business is to be conducted. The name is a fictitious name if it does not contain the name of the applicant or the names of the members of the applicant's company, firm, partnership or association. Except as otherwise provided in NRS 645.387, a license must not be issued under a fictitious name which includes the name of a real estate salesman or broker-salesman. A license must not be issued under the same fictitious name to more than one licensee within the State. All licensees doing business under a fictitious name shall comply with other pertinent statutory regulations regarding the use of fictitious names.

(c) In the case of a broker, the place or places, including the street number, city and county, where the business is to be conducted.

(d) The business or occupation engaged in by the applicant for at least 2 years immediately preceding the date of the application, and the location thereof.

(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesman.

(f) Whether the applicant has ever been convicted of or is under indictment for a felony or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a charge of felony and, if so, the nature of the felony.

(g) Whether the applicant has been convicted of or entered a plea of nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in the business of selling real estate without a license or any crime involving moral turpitude.

(h) Whether the applicant has been refused a real estate broker's, broker-salesman's or salesman's license in any state, or whether his license as a broker or salesman has been revoked or suspended by any other state, district or territory of the United States or any other country.

(i) If the applicant is a member of a limited-liability company, partnership or association, or an officer of a corporation, the name and address of the office of the limited-liability company, partnership, association or corporation of which the applicant is a member or officer.

(j) All information required to complete the application.

3. An applicant for a license as a broker-salesman or salesman shall provide a verified statement from the broker with whom he will be associated, expressing the intent of that broker to associate the applicant with him and to be responsible for the applicant's activities as a licensee.

4. If a limited-liability company, partnership or association is to do business as a real estate broker, the application for a broker's license must be verified by at least two members thereof. If a corporation is to do business as a real estate broker, the application must be verified by the president and the secretary thereof.

Sec. 87. NRS 645.633 is hereby amended to read as follows:

645.633 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

(a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his state of residence.

(d) A conviction of, or the entry of a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(1) A felony relating to the practice of the licensee, property manager or owner-developer; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which he is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before he became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesman or salesman, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesman's or salesman's license issued to him by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to NRS 645.6056:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and

(b) Any disciplinary actions taken by the Commission pursuant to subsection 3.

Sec. 88. NRS 645C.290 is hereby amended to read as follows:

645C.290 An application for a certificate or license must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, where the applicant intends to conduct business as an appraiser.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The periods during which, and the locations where, he gained his experience as an intern.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. Whether the applicant has ever been refused a certificate, license or permit to act as an appraiser, or has ever had such a certificate, license or permit suspended or revoked, in any other jurisdiction.

7. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

8. Any other information the Division requires.

Sec. 89. NRS 645C.320 is hereby amended to read as follows:

645C.320 1. The Administrator shall issue a certificate or license, as appropriate, to any person:

(a) Of good moral character, honesty and integrity;

(b) Who meets the educational requirements and has the experience prescribed in NRS 645C.330 or any regulation adopted pursuant to that section;

(c) Who, except as otherwise provided in NRS 645C.360, has satisfactorily passed a written examination approved by the Commission; and

(d) Who submits all information required to complete an application for a certificate or license.

2. The Administrator may deny an application for a certificate or license to any person who:

(a) Has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application; or

(c) Has had a certificate, license or registration card suspended or revoked pursuant to this chapter, or a certificate, license or permit to act as an appraiser suspended or revoked in any other jurisdiction, within the 10 years immediately preceding the date of his application.

Sec. 90. NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony ~~[,]~~ and **,** if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

Sec. 91. NRS 645D.200 is hereby amended to read as follows:

645D.200 1. The Administrator shall issue a certificate to any person who:

(a) Is of good moral character, honesty and integrity;

(b) Has the education and experience prescribed in the regulations adopted pursuant to NRS 645D.120;

(c) Has submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190; and

(d) Has submitted all information required to complete an application for a certificate.

2. The Administrator may deny an application for a certificate to any person who:

(a) Has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application;

(c) Has had a certificate suspended or revoked pursuant to this chapter within the 10 years immediately preceding the date of his application; or

(d) Has not submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190.

Sec. 92. NRS 683A.0892 is hereby amended to read as follows:

683A.0892 1. The Commissioner:

(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

(1) Is in an unsound financial condition;

(2) Uses methods or practices in the conduct of his business that are hazardous or injurious to insured persons or members of the general public; or

(3) Has failed to pay any judgment against him in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

(1) Has willfully violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

(2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

(3) Has, without just cause, refused to pay claims or perform services pursuant to his contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against him to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of **,** or has entered a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to **,** a felony, whether or not adjudication was withheld;

(7) Has had his authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of **,** or has entered a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to **,** a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of $2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

Sec. 93. NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his application for the license;

(c) Be competent, trustworthy, financially responsible and of good reputation;

(d) Never have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable him to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom he is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or

(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty **, *guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

Sec. 94. NRS 686A.292 is hereby amended to read as follows:

686A.292 1. A court may, in addition to imposing the penalties set forth in NRS 193.130, order a person who is convicted of, or who pleads guilty **, *guilty but mentally ill*** or nolo contendere to, insurance fraud to pay:

(a) Court costs; and

(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty **, *guilty but mentally ill*** or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit for Insurance established pursuant to NRS 228.412, and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a victim for the purposes of restitution in a case that involves insurance fraud or that is related to a claim of insurance fraud.

Sec. 95. NRS 686A.295 is hereby amended to read as follows:

686A.295 If a person who is licensed or registered under the laws of the State of Nevada to engage in a business or profession is convicted of **,** or pleads guilty ***or guilty but mentally ill*** to **,** engaging in an act of insurance fraud, the Commissioner and the Attorney General shall forward to each agency by which the convicted person is licensed or registered a copy of the conviction or plea and all supporting evidence of the act of insurance fraud. An agency that receives information from the Commissioner and Attorney General pursuant to this section shall, not later than 1 year after the date on which it receives the information, submit a report which sets forth the action taken by the agency against the convicted person, including, but not limited to, the revocation or suspension of the license or any other disciplinary action, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 96. NRS 688C.210 is hereby amended to read as follows:

688C.210 After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

1. There was material misrepresentation in the application for the license;

2. The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject

to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

3. A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

4. The applicant or licensee has been found guilty ***or guilty but mentally ill*** of, or pleaded guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

5. A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

6. A provider of viatical settlements has failed to honor obligations of a viatical settlement;

7. The licensee no longer meets a requirement for initial licensure;

8. A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement, a special organization or a trust for a related provider;

9. The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

10. The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

11. The applicant or licensee has violated a provision of this chapter.

Sec. 97. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 98. NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of his fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

Sec. 99. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining

money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 100. NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty **, *guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

Sec. 101. NRS 690B.029 is hereby amended to read as follows:

690B.029 1. A policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this State to a person who is 55 years of age or older must contain a provision for the reduction in the premiums for 3-year periods if the insured:

(a) Successfully completes, after attaining 55 years of age and every 3 years thereafter, a course of traffic safety approved by the Department of Motor Vehicles; and

(b) For the 3-year period before completing the course of traffic safety and each 3-year period thereafter:

(1) Is not involved in an accident involving a motor vehicle for which the insured is at fault;

(2) Maintains a driving record free of violations; and

(3) Has not been convicted of **,** or entered a plea of guilty **, *guilty but mentally ill*** or nolo contendere to **,** a moving traffic violation or an offense involving:

(I) The operation of a motor vehicle while under the influence of intoxicating liquor or a controlled substance; or

(II) Any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct.

2. The reduction in the premiums provided for in subsection 1 must be based on the actuarial and loss experience data available to each insurer and must be approved by the Commissioner. Each reduction must be calculated based on the amount of the premium before any reduction in that premium is made pursuant to this section, and not on the amount of the premium once it has been reduced.

3. A course of traffic safety that an insured is required to complete as the result of moving traffic violations must not be used as the basis for a reduction in premiums pursuant to this section.

4. The organization that offers a course of traffic safety approved by the Department of Motor Vehicles shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The Commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the Commissioner before delivering or issuing a policy with a provision containing such a reduction.

Sec. 102. NRS 692A.105 is hereby amended to read as follows:

692A.105 1. The Commissioner may refuse to license any title agent or escrow officer or may suspend or revoke any license or impose a fine of not more than $500 for each violation by entering an order to that effect, with his findings in respect thereto, if **,** upon a hearing, it is determined that the applicant or licensee:

(a) In the case of a title agent, is insolvent or in such a financial condition that he cannot continue in business with safety to his customers;

(b) Has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) Has committed fraud in connection with any transaction governed by this chapter;

(d) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact known to him from, any principal or designated agent of the principal in the course of the escrow business;

(e) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from him any information which the applicant or licensee possesses;

(f) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(g) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(h) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(i) Has been convicted of a felony relating to the practice of title agents or any misdemeanor of which an essential element is fraud;

(j) In the case of a title agent, has failed to maintain complete and accurate records of all transactions within the last 7 years;

(k) Has commingled the money of other persons with his own or converted the money of other persons to his own use;

(l) Has failed, before the close of escrow, to obtain written instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(m) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction;

(n) In the case of an escrow officer, has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, any crime involving moral turpitude; or

(o) Has failed to obtain and maintain a copy of the executed agreement or contract that establishes the conditions for the sale of real property.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association if any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission directly arising from the business activities of a title agent which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend or revoke the license of a title agent, or impose a fine, if the Commissioner finds that the title agent:

(a) Failed to maintain adequate supervision of an escrow officer or title agent he has appointed or employed.

(b) Instructed an escrow officer to commit an act which would be cause for the revocation of the escrow officer's license and the escrow officer committed the act. An escrow officer is not subject to disciplinary action for committing such an act under instruction by the title agent.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

Sec. 103. NRS 697.150 is hereby amended to read as follows:

697.150 1. Except as otherwise provided in subsection 2, a person is entitled to receive, renew or hold a license as a bail agent if he:

(a) Is a resident of this State and has resided in this State for not less than 1 year immediately preceding the date of the application for the license.

(b) Is a natural person not less than 18 years of age.

(c) Has been appointed as a bail agent by an authorized surety insurer, subject to the issuance of the license.

(d) Is competent, trustworthy and financially responsible.

(e) Has passed any written examination required under this chapter.

(f) Has filed the bond required by NRS 697.190.

(g) Has, on or after July 1, 1999, successfully completed a 6-hour course of instruction in bail bonds that is:

(1) Offered by a state or national organization of bail agents or another organization that administers training programs for bail agents; and

(2) Approved by the Commissioner.

2. A person is not entitled to receive, renew or hold a license as a bail agent if he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in this subsection is a sufficient ground for the Commissioner to deny a license to the applicant or to suspend or revoke the license of the agent.

Sec. 104. 1. This section and sections 1 to 40, inclusive, 42 to 58, inclusive, 60, 62 to 67, inclusive, 69, 71 to 97, inclusive, 99, 101, 102 and 103 of this act become effective on October 1, 2007.

2. Section 40 of this act expires by limitation on June 30, 2009.

3. Sections 58, 60, 67 and 69 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Sections 97 and 99 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 41 of this act becomes effective on July 1, 2009.

6. Sections 59, 61, 68 and 70 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

7. Sections 98 and 100 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 294.

SUMMARY— ~~[Establishes teams specializing in the investigation and prosecution of]~~ **Makes various changes relating to** crimes against older persons. (BDR ~~[15]~~ **18**-162)

AN ACT relating to older persons; creating the Unit for the ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons **within the Office of the Attorney General;** ~~[, the Initial Crime Evaluation Team, and the Civilian Volunteer Investigation and Prosecution Team; providing for the appointment of an Executive Director of Crimes Against Older Persons;]~~ **authorizing the Unit to investigate, prosecute and commence certain legal proceedings to prevent certain crimes against older persons; providing for a civil penalty to be imposed against a person who commits certain crimes against an older person;** creating the Repository for Information Concerning Crimes Against Older Persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill creates the Unit for the ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons ~~[to facilitate cooperation among law enforcement agencies in the detection, investigation and prosecution of crimes against persons 60 years of age or older. Section 6 of this bill establishes the meeting requirements for members of the Unit. Section 7 of this bill establishes the duties of the Unit, including the creation of the Initial Crime Evaluation Team and the Civilian Volunteer Investigation and Prosecution Team. Section 8 of this bill establishes the duties of the Initial Crime Evaluation Team. Section 9 of this bill establishes the duties of the Civilian Volunteer Investigation and Prosecution Team. Section 10 of this bill provides for the appointment of an Executive Director of Crimes Against Older Persons within the Office of the Attorney General. Section 11 of this bill provides for the appointment of a full-time secretary for the Unit.]~~ **within the Office of the Attorney General.** Section 12 of this bill **authorizes the Unit to investigate and prosecute alleged incidences of abuse, neglect, exploitation or isolation of an older person in certain circumstances. Section 13 of this bill requires the Unit, to the extent of legislative appropriation, to provide training to persons who have regular contact with older persons in their professions and occupations. Section 14 of this bill authorizes the Unit to bring an action to enjoin or obtain other equitable relief to prevent abuse, neglect, exploitation or isolation of an older person.**

Section 15 of this bill provides for the imposition of a civil penalty against a person who engages in such acts. Any money collected from such civil penalties will be divided between the Fund for the Compensation of Victims of Crime and the Account for the Unit.

Section 16 of this bill creates in the State General Fund an account for the Unit to pay expenses relating to the duties of the Unit. Section ~~[13]~~ **17** of this bill allows the Unit to apply for grants and accept gifts, grants, appropriations or donations to assist in carrying out its duties.

Section ~~[14]~~ **18** of this bill creates the Repository for Information Concerning Crimes Against Older Persons in the Central Repository for Nevada Records of Criminal History.

Section 19 of this bill requires certain reports concerning the abuse, neglect, exploitation or isolation of an older person to be forwarded to the Unit. (NRS 200.5093)

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

Section 1. ~~[Title 15]~~ **Chapter 228** of NRS is hereby amended by adding thereto ~~[a new chapter to consist of]~~ the provisions set forth as sections 2 to ~~[14,]~~ **17**, inclusive, of this act.

Sec. 2. ***As used in*** ~~[this chapter,]~~ ***sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Older person" means a person who is 60 years of age or older.***

Sec. 4. ***"Unit" means the Unit for the*** ~~[Review and Oversight of the]~~ ***Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 5 of this act.***

Sec. 5. ***1. There is hereby created in the Office of the Attorney General the Unit for the*** ~~[Review and Oversight of the]~~ ***Investigation and Prosecution of Crimes Against Older Persons.***

2. The ~~[Unit consists of the following members:~~

~~(a) One prosecuting attorney from the Office of the Attorney General.~~

~~(b) One prosecuting attorney from the office of the district attorney of each county.~~

~~(c) One officer from:~~

~~(1) Each police department of an incorporated city located in a county whose population is 100,000 or more.~~

~~(2) The sheriff's office of each county, except that if the county is within the jurisdiction of a metropolitan police department, then two officers from the metropolitan police department.~~

~~3. Each member of the Unit who is appointed to the Unit serves for a term of 4 years. A vacancy on the Unit in an appointed position must be filled in the same manner as the original appointment. A member may be reappointed to the Unit.~~

~~4. The members of the Unit shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Unit shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.~~

~~5. The members of the Unit:~~

~~(a) Serve without compensation; and~~

~~(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Unit.~~

~~6. A member of the Unit who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Unit and perform any work necessary to carry out the duties of the Unit in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Unit to make up the time he is absent from work to carry out his duties as a member of the Unit or use annual vacation or compensatory time for the absence.~~] ***Attorney General shall appoint to the Unit one attorney, at least one investigator and at least one other person to provide outreach services to older persons concerning the duties of the Unit and to provide administrative support to the Unit.***

Sec. 6. [~~*1. The Unit shall meet at least once every quarter and at the times and places specified by a call of the Chairman or a majority of the members of the Unit.*~~

~~*2. A member of the Unit may designate in writing a person to represent him at a meeting of the Unit. A representative who has been so designated:*~~

~~*(a) Shall be deemed to be a member of the Unit for the purpose of determining a quorum at the meeting; and*~~

~~*(b) May vote on any matter that is voted on by the regular members of the Unit at the meeting.*~~

~~*3. A majority of the members of the Unit constitute a quorum. A quorum may exercise all the power and authority conferred on the Unit.*~~

~~*4. Notwithstanding any other provision of law, a member of the Unit:*~~

~~*(a) Is not disqualified from public employment or holding a public office because of his membership on the Unit; and*~~

~~*(b) Does not forfeit his public office or public employment because of his membership on the Unit.*~~] **(Deleted by amendment.)**

Sec. 7. [~~*The Unit shall:*~~

~~*1. Facilitate cooperation among state, local and federal law enforcement officers in detecting, investigating and prosecuting crimes against older persons.*~~

~~*2. Provide appropriate review and oversight of all active investigations and activities relating to the prosecution of crimes against older persons, including, without limitation, the allegation of a crime, all stages of legal proceedings and the financial compensation of the victim.*~~

~~*3. Establish an Initial Crime Evaluation Team.*~~

~~*4. Establish a Civilian Volunteer Investigation and Prosecution Team.*~~

~~*5. Coordinate and provide training and education for members of the general public, private industry and governmental agencies, including, without limitation, law enforcement agencies, concerning the national, state and local statistics of crimes against older persons.*~~

~~*6. Evaluate and recommend changes to the existing civil and criminal laws relating to crimes against older persons in response to current and projected studies and data relating to crimes against older persons.*~~

~~*7. Authorize the payment of expenses incurred by the Unit in carrying out its duties pursuant to this chapter.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. The Initial Crime Evaluation Team created pursuant to section 7 of this act shall consist of:*~~

~~*(a) Local law enforcement officers, investigators and prosecutors who are specifically trained to investigate and prosecute crimes against older persons; and*~~

~~*(b) Persons from state governmental agencies that conduct activities related to older persons.*~~

~~*2. The Initial Crime Evaluation Team shall:*~~

~~*(a) Establish a procedure to determine the seriousness and category of each reported offense against an older person; and*~~

~~*(b) Coordinate with local law enforcement officers, investigators and prosecutors to provide additional assistance in the investigation and prosecution of crimes against older persons.*~~

~~*3. The members of the Initial Crime Evaluation Team:*~~

~~*(a) Serve without compensation; and*~~

~~*(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Initial Crime Evaluation Team.*~~

~~*4. A member of the Initial Crime Evaluation Team who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Initial Crime Evaluation Team and perform any work necessary to carry out the duties of the Initial Crime Evaluation Team in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Initial Crime Evaluation Team to make up the time he is absent from work to carry out his duties as a member of the Initial Crime Evaluation Team or use annual vacation or compensatory time for the absence.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[1. The Civilian Volunteer Investigation and Prosecution Team created pursuant to section 7 of this act shall consist of retired law enforcement officers, attorneys licensed to practice in this State, social workers and other persons who are selected with appropriate regard for their expertise with and knowledge of matters relating to crimes against older persons.*~~

~~*2. Volunteers of the Civilian Volunteer Investigation and Prosecution Team shall investigate reports of financial crimes against older persons and provide assistance to the victim throughout any civil proceeding.*~~

~~*3. The Unit shall establish regulations to provide a stipend for volunteer work, a training program and the investigation of a volunteer's background.*~~

~~*4. As used in this section, "financial crimes" include, without limitation, any act by a person conducted to:*~~

~~*(a) Obtain control, through deception, intimidation or undue influence, over an older person's ownership, use, benefit or possession of his money, assets or property; or*~~

~~*(b) Unlawfully convert money, assets or property of an older person with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~[*1. The Unit shall appoint an Executive Director of Crimes Against Older Persons within the Office of the Attorney General.*~~

~~*2. The Executive Director is in the unclassified service of the State and serves at the pleasure of the Unit.*~~

~~*3. The Unit shall establish the qualifications, powers and duties of the Executive Director.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~[*The Unit shall appoint a full-time secretary who is in the unclassified service of the State and serves at the pleasure of the Unit.]*~~ (Deleted by amendment.)

Sec. 12. ***The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:***

1. At the request of the district attorney of the county in which the violation occurred;

2. If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

3. Jointly with the district attorney of the county in which the violation occurred.

Sec. 13. ***To the extent of legislative appropriation, the Unit shall provide training concerning the manner in which to recognize, prevent and intervene in cases of abuse, neglect, exploitation and isolation of older persons to persons who are likely to have regular contact with older persons in their professions or occupations, including, without limitation, persons described in subsection 4 of NRS 200.5093, attorneys, bankers, investment brokers and administrators of health care facilities.***

Sec. 14. ***The Unit may bring an action to enjoin or obtain any other equitable relief to prevent the abuse, neglect, exploitation or isolation of an older person. The court may award reasonable attorney's fees and costs if the Unit prevails in such an action.***

Sec. 15. ***1. In addition to any criminal penalty, a person who is found guilty of abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:***

(a) For the first offense, in an amount which is not less than $5,000 and not more than $20,000.

(b) For a second or subsequent offense, in an amount which is not less than $10,000 and not more than $30,000.

2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:

(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995; and

(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 16 of this act.

~~[Sec. 12.]~~ ***Sec. 16. 1. The Account for the Unit for the*** ~~[Review and Oversight of the]~~ ***Investigation and Prosecution of Crimes Against Older Persons is hereby created in the State General Fund. The*** ~~[Unit]~~ ***Attorney General shall administer the Account.***

2. The money in the Account must only be used to carry out the provisions of ~~[this chapter]~~ ***sections 2 to 17, inclusive, of this act and to pay the expenses incurred by the Unit in the discharge of its duties, including, without limitation,*** ~~[the payment of any expenses related to the creation and subsequent activities of the Initial Crime Evaluation Team and the Civilian Volunteer Investigation and Prosecution Team.]~~ ***expenses relating to the provision of training and salaries and benefits for employees of the Unit.***

3. ~~[Claims against]~~ ***Money in the Account must remain in the Account and must not revert to the State General Fund at the end of any fiscal year.***

~~[Sec. 13.]~~ ***Sec. 17. 1. The Unit may apply for any available grants and accept gifts, grants, appropriations or donations to assist the Unit in carrying out its duties pursuant to the provisions of this chapter.***

2. Any money received by the Unit must be deposited in the Account for the Unit for the ~~[Review and Oversight of the]~~ ***Investigation and Prosecution of Crimes Against Older Persons created pursuant to section*** ~~[12]~~ ***16 of this act.***

~~[Sec. 14.]~~ ***Sec. 18.*** Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State ~~[, in accordance with regulations adopted]~~ ***that must be prepared in a manner approved by the Director of the Department.***

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess ~~[:~~

~~(a) The]~~ ***the incidence of crimes against older persons .*** ~~[; and~~

~~(b) The effectiveness of programs for the prevention of crimes against older persons.~~

~~4. The Director of the Department shall report the statistical data and findings from the program to the Legislature at the beginning of each regular session.]~~

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 19. **NRS 200.5093 is hereby amended to read as follows:**

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services ~~[.]~~ ***and the Unit for the Investigation and Prosecution of Crimes.***

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and

family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney**,** ~~[and]~~ the Aging Services Division of the Department of Health and Human Services ***and the Unit for the Investigation and Prosecution of Crimes*** his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report ~~[.]~~ ***and a copy of any final report of an investigation must be forwarded to the Unit***

for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to section 5 of this act.

Sec. 20. **NRS 217.050 is hereby amended to read as follows:**

217.050 "Personal injury" means:

1. Actual bodily harm or threat of bodily harm which results in a need for medical treatment;

2. In the case of a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730, any harm which results in a need for medical treatment or any psychological or psychiatric counseling, or both; or

3. Any harm which results from sexual abuse.

4. Any harm which results from a violation of NRS 200.5099 or 200.50995.

Sec. 21. **NRS 217.070 is hereby amended to read as follows:**

217.070 "Victim" means:

1. A person who is physically injured or killed as the direct result of a criminal act;

2. A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;

3. A minor who was sexually abused, as "sexual abuse" is defined in NRS 432B.100;

4. A person who is physically injured or killed as the direct result of a violation of NRS 484.379 or any act or neglect of duty punishable pursuant to NRS 484.3795 or 484.37955;

5. A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of an accident involving the driver and the pedestrian in violation of NRS 484.219; ~~[or]~~

6. ***An older person who is abused, neglected, exploited or isolated in violation of NRS 200.5099 or 200.50995; or***

7. A resident who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1).

➥ The term includes a person who was harmed by any of these acts whether the act was committed by an adult or a minor.

~~[Sec. 15.]~~ ***Sec. 22.*** This act becomes effective on July 1, 2007.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 341.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 447.

SUMMARY—Makes various changes relating to energy conservation. (BDR ~~[58]~~ **27**-389)

AN ACT relating to energy conservation; ~~[revising the composition of the Task Force for Renewable Energy and Energy Conservation;]~~ revising various provisions ~~[relating to the conservation of energy; making an appropriation;]~~ **governing performance contracts for operating cost-savings measures; revising various provisions governing energy conservation in certain public buildings; creating the Nevada Integrated Design Laboratories Fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to energy conservation. ~~[Section 1 of this bill adds two members to the Task Force for Renewable Energy and Energy Conservation, a representative of the transportation fuels industry and a representative of the natural gas industry, and places the Task Force in the Office of Energy. Section 2 of this bill allows the use of certain money generated by the Universal Energy Charge for solar hot water systems and solar hot air systems. Sections 3-6 of this bill revise certain limitations relating to the generating capacity of net metering systems. Sections 7-9]~~ **Sections 1-3** of this bill increase the maximum period of performance contracts **for operating cost-savings measures** and contracts for their financing ~~[.]~~ **entered into by certain state agencies and local governments. (NRS 332.300-332.440, chapter 333A of NRS)** Section ~~[10]~~ **4** of this bill extends the payback period for energy savings measures incorporated into public buildings, and requires identification of measures for the use of ground-source geothermal heat pumps in such buildings. **(NRS 338.190)** Section ~~[11]~~ **5** of this bill ~~[makes an appropriation to the Nevada System of Higher Education]~~ **creates the Nevada Integrated Design Laboratories Fund and authorizes the Nevada System of Higher Education to apply for and accept grants, gifts, donations, bequests or devises to the Fund. The money in the Fund must be used** to support the establishment and operations of two Nevada Integrated Design Laboratories, one located in northern Nevada and one located in southern Nevada.

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

Delete existing sections 1 through 12 of this bill and replace with the following new sections 1 through 6:

Section 1. **NRS 332.380 is hereby amended to read as follows:**

332.380 1. A performance contract must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, must be made over time.

2. Except as otherwise provided in this subsection, a performance contract, and the payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed ~~[15]~~ ***20*** years. The length of a performance contract may reflect the useful life of the operating cost-savings measure being installed or purchased under the performance contract.

3. The period over which payments are made on a performance contract must equal the period over which the operating cost savings are amortized. Payments on a performance contract must not commence until the operating cost-savings measures have been installed by the qualified service company.

Sec. 2. **NRS 333A.0902 is hereby amended to read as follows:**

333A.0902 In connection with any installment-purchase contract or lease-purchase contract entered into to finance a performance contract, the Board may:

1. Grant a security interest in any property that is the subject of the installment-purchase contract or lease-purchase contract and execute an instrument to evidence such a security interest, including, without limitation, a deed of trust, a leasehold interest deed of trust, a mortgage or a financing agreement.

2. Offer certificates of participation.

3. If the installment-purchase contract or lease-purchase contract involves an improvement to property owned by the State of Nevada or the using agency, enter into a lease of the property to which the improvement will be made and any property that is adjacent to that property if the installment-purchase contract or lease-purchase contract:

(a) Except as otherwise provided in NRS 333A.0916, has a term of not more than ~~[15]~~ ***20*** years beyond the date on which construction of the work required by the installment-purchase contract or lease-purchase contract is completed; and

(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the Board at the time the parties enter into the lease, which must be paid if the installment-purchase contract or lease-purchase contract terminates before the expiration of the lease because the Legislature fails to appropriate money for payments due pursuant to the installment-purchase contract or lease-purchase contract.

➥ A lease entered into pursuant to this subsection may provide for nominal rental payments to be paid pursuant to the lease before the installment-purchase contract or lease-purchase contract terminates.

4. Enter into any other agreement, contract or arrangement that the Board determines would be beneficial to the purpose of the installment-purchase contract or lease-purchase contract, including, without limitation, contracts for professional services, trust indentures, paying agent agreements and contracts of insurance.

Sec. 3. **NRS 333A.100 is hereby amended to read as follows:**

333A.100 1. Notwithstanding any provision of this chapter to the contrary, a performance contract entered into pursuant to this chapter does not create a debt for the purposes of Section 3 of Article 9 of the Nevada Constitution.

2. Except as otherwise provided in this section, the term of a performance contract may extend beyond the biennium in which the contract is executed, provided that the performance contract contains a provision which states that all obligations of the State under the performance contract are extinguished at the end of any fiscal year if the Legislature fails to provide an appropriation to the using agency for the ensuing fiscal year for payments to be made under the performance contract. If the Legislature fails to appropriate money to a using agency for a performance contract, there is no remedy against the State, except that if a security interest in any property was created pursuant to the performance contract, the holder of such a security interest may enforce the security interest against that property. Except as otherwise provided in NRS 333A.0916, the term of a performance contract must not exceed ~~[15]~~ ***20*** years after the date on which the work required by the performance contract is completed.

3. The length of a performance contract may reflect the useful life of the operating cost-savings measure being installed or purchased under the performance contract.

Sec. 4. **NRS 338.190 is hereby amended to read as follows:**

338.190 1. Before it begins to construct or renovate any occupied public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within ~~[10]~~ ***20*** years that are equal to or greater than the cost of implementation; ~~[and]~~

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy ~~[.]~~ ***and***

(4) Use of ground-source geothermal heat pumps,

➥ which can be included in the building in its construction or renovation.

3. The agency of government which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.

4. The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

Sec. 5. **Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The Nevada Integrated Design Laboratories Fund is hereby created.

2. The money in the Fund must be used by the Nevada Small Business Development Center to support the establishment and operations of two Nevada Integrated Design Laboratories, one located in northern Nevada and one located in southern Nevada.

3. The Board of Regents:

(a) Shall administer the Fund.

(b) May apply for and accept on behalf of the Nevada Small Business Development Center any grants, gifts, donations, bequests or devises to support the establishment and operations of the Nevada Integrated Design Laboratories. The money received from any such grants, gifts, donations, bequests or devises must be deposited in the Fund.

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

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

6. As used in this section, "Nevada Small Business Development Center" means the Nevada Small Business Development Center established by the System in cooperation with the United States Small Business Administration or any entity established as a successor to the Nevada Small Business Development Center.

Sec. 6. **This act becomes effective on July 1, 2007.**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 394.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 478.

SUMMARY—Makes an appropriation to the **Division of Mental Health and Developmental Services of the** Department of Health and Human Services to establish a pilot program to provide respite care for families of ~~[persons with mental disabilities.]~~ **adults who are severely mentally ill and children who are severely emotionally disturbed.** (BDR S-1006)

AN ACT making an appropriation to the **Division of Mental Health and Developmental Services of the** Department of Health and Human Services to establish a pilot program to provide respite care for families of ~~[persons with mental disabilities;]~~ **adults who are severely mentally ill and children who are severely emotionally disturbed;** 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. 1. There is hereby appropriated from the State General Fund to the **Division of Mental Health and Developmental Services of the** Department of Health and Human Services for establishment of a pilot program to provide respite care for families of ~~[mentally disabled persons]~~ **adults who are severely mentally ill and children who are severely emotionally disturbed,** in accordance with section 2 of this act:

For the Fiscal Year 2007-2008 ..... $50,000

For the Fiscal Year 2008-2009 ..... $100,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal year by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 2. 1. The pilot program established by the **Division of Mental Health and Developmental Services of the** Department of Health and Human Services shall provide respite care for 50 families in Las Vegas in

Fiscal Year 2007-2008, and 75 families in Las Vegas and 25 families in Reno in Fiscal Year 2008-2009.

2. On or before February 2, 2009, the ~~[Department of Health and Human Services]~~ **Division** shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The report must include, without limitation:

(a) An evaluation of the pilot program, including, without limitation, the effect of the program on the families and the mentally disabled persons participating in the program; and

(b) Any recommendations for legislation relating to the pilot programs.

Sec. 3. This act becomes effective on July 1, 2007.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to the Concurrent Committee on Ways and Means.

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 556.

AN ACT relating to crimes; establishing the crime of participating in an organized retail theft ring; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person commits the crime of theft if the person: (1) controls any property of another person with the intent to deprive that person of the property; (2) converts, makes an unauthorized transfer of an interest in, or without authorization controls any property of another person; (3) obtains real, personal or intangible property or the services of another person by a material misrepresentation with intent to deprive that person of the property or services; (4) comes into control of lost, mislaid or misdelivered property of another person and appropriates that property; (5) controls property of another person knowing or having reason to know that the property was stolen; (6) obtains services or parts, products or other items related to such services which he knows are available only for compensation without paying or agreeing to pay compensation; (7) takes, destroys, conceals or disposes of property in which another person has a security interest, with intent to defraud that person; (8) commits any act that is declared to be theft by a specific statute; (9) draws or passes a check, and in exchange obtains property or services, if he knows that the check will not be paid when presented; or (10) obtains gasoline or other fuel or automotive products which are available only for compensation without paying or agreeing to pay compensation. (NRS 205.0832) A person who commits theft is guilty of: (1) a misdemeanor, if the value of the property or services involved in the theft is less than $250; (2) a category C felony if the value of the property or services

involved in the theft is $250 or more but less than $2,500; or (3) a category B felony, punishable by imprisonment for a minimum term of not less than 1 year and a maximum term of not less than 10 years, if the value of the property or services involved in the theft is $2,500 or more. (NRS 205.0835)

Section 1 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than ~~[2 years]~~ **1 year** and a maximum term of not more than 10 years, if the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring during a period of ~~[180]~~ **90** days is **at least $2,500 but** less than $10,000; or (2) a minimum term of not less than ~~[3]~~ **2** years and a maximum term of not more than 15 years, if the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring during a period of ~~[180]~~ **90** days is $10,000 or more. Under section 1, an organized retail theft ring is defined as ~~[“an association of]~~ three or more persons who ~~[engage]~~ **associate for the purpose of engaging** in the conduct of ~~[or are associated for the purpose of]~~ committing a series of thefts **of retail merchandise** against more than one merchant in this State ~~[.”]~~ **or against one merchant but at more than one location of a retail business of the merchant in this State.**

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who participates in an organized retail theft ring is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of ~~[180]~~ ***90 days is at least $2,500 but less than $10,000, a minimum term of not less than*** ~~[2 years]~~ ***1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.***

(b) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of ~~[180]~~ ***90 days is $10,000 or more, a minimum term of not less than*** ~~[3]~~ ***2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.***

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed by an organized retail theft ring in this State during a period of ~~[180]~~ ***90 days:***

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means ~~[an association of]~~ ***three or more persons who*** ~~[engage]~~ ***associate for the purpose of engaging in the conduct of*** ~~[or are associated for the purpose of]~~ ***committing a series of thefts of retail merchandise against more than one merchant in this State*** ~~[.]~~ ***or against one merchant but at more than one location of a retail business of the merchant in this State.***

Sec. 2. NRS 205.0821 is hereby amended to read as follows:

205.0821 As used in NRS 205.0821 to 205.0835, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.0833 is hereby amended to read as follows:

205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, ***and section 1 of this act*** constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.

2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, ***and section 1 of this act*** notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.

Sec. 4. NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute ~~[,]~~ ***and unless the provisions of section 1 of this act apply under the circumstances,*** a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, ***and section 1 of this act*** shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft is less than $250, the person who committed the theft is guilty of a misdemeanor.

3. If the value of the property or services involved in the theft is $250 or more but less than $2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. If the value of the property or services involved in the theft is $2,500 or more, the person who committed the theft 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 10 years, and by a fine of not more than $10,000.

5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 359.

AN ACT relating to education; requiring a school district to maintain an employee in his position of employment rather than suspend his employment for failure to maintain a valid license if the lapse of the employee's license occurs during a time that school is in session; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires the Superintendent of Public Instruction to provide written notice to a person who is licensed pursuant to chapter 391 of NRS of the date of expiration of the person's license.

Existing law prescribes the action that must be taken by a school district if the license of a teacher or other person who is licensed pursuant to chapter 391 of NRS fails to maintain his license in force. (NRS 391.301-391.309) A school district shall immediately suspend without pay such a person from employment. If the person does not reinstate his license within a prescribed time, the school district shall terminate the person's employment. (NRS 391.302) ~~[This]~~ **Section 3 of this** bill provides that if the employee's license lapses during a time that school is in session, the ~~[school district shall maintain the employee in his position of employment with pay. The school district is still required to terminate the]~~ **employee must not be suspended from employment for 90 days or until the end of the school year, whichever is longer. The** person's employment **shall be deemed terminated** if the person does not reinstate his license within ~~[a]~~ **the** prescribed time.

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

Delete existing sections 1 through 4 of this bill and replace with the following new sections 1 through 9:

Section 1. **Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. ***The Superintendent of Public Instruction shall provide written notice to each person who holds a license issued pursuant to this chapter of the date on which the license expires. The written notice must be mailed, by first-class mail, to the last known address of the licensee, as reflected in the records of the Superintendent, not less than 6 months and not more than 1 year before the date of expiration.***

Sec. 3. ***1. Except as otherwise provided by subsection 3, if the license of an employee lapses during a time that school is in session:***

(a) The school district that employs him shall provide written notice to the employee of the lapse of his license and of the provisions of this section;

(b) The employee must not be suspended from employment for the lapsed license for a period of 90 days after the date of the notice pursuant to paragraph (a) or the end of the school year, whichever is longer; and

(c) The employee's license shall be deemed valid for the period described in paragraph (b) for purposes of the employee's continued employment with the school district during that period.

2. If a school district complies with subsection 1 and an employee fails to reinstate his license within the time prescribed in paragraph (b) of subsection 1, his employment shall be deemed terminated at the end of the period described in paragraph (b) of subsection 1 and the school district is not otherwise required to comply with NRS 391.301 to 391.309, inclusive.

3. The provisions of this section do not apply to an employee whose license has been suspended or revoked by the State Board pursuant to NRS 391.320 to 391.361, inclusive.

Sec. 4. NRS 391.120 is hereby amended to read as follows:

391.120 1. Boards of trustees of the school districts in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.

2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.

3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. ~~[The]~~ ***Except as otherwise provided in section 3***

of this act, the board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive ~~[.]~~ ***, and section 3 of this act.***

4. On or before November 15 of each year, the school district shall submit to the Department, in a form prescribed by the Superintendent of Public Instruction, the following information for each licensed employee employed by the school district on October 1 of that year:

(a) The amount of salary of the employee; and

(b) The designated assignment, as that term is defined by the Department of Education, of the employee.

Sec. 5. **NRS 391.301 is hereby amended to read as follows:**

391.301 As used in NRS 391.301 to 391.309, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, "employee" means a person who:

1. Is employed by a school district in this State; and

2. Is required, as a condition of his employment, to hold a license issued pursuant to this chapter.

Sec. 6. **NRS 391.302 is hereby amended to read as follows:**

391.302 1. ~~[If]~~ ***Except as otherwise provided in section 3 of this act, if*** an employee fails to maintain his license in force, the school district that employs him shall:

(a) Immediately suspend the employee without pay; and

(b) Terminate his employment if he fails to reinstate his license within the time prescribed by subsection 2 of NRS 391.305.

2. If an employee is suspended pursuant to this section and, within 90 days after the date of suspension, is granted by the Department or Commission an extension of time or any other relief which has the effect of reinstating or continuing his license in force, the suspension of the employee is ineffective and the school district shall immediately reinstate the employee while his license remains in force. The employee must be reinstated to the position he held at the time of his suspension. If the employee thereafter fails again to maintain his license in force, the school district shall again suspend the employee without pay and proceed in accordance with NRS 391.305, 391.308 and 391.309.

Sec. 7. **NRS 391.3115 is hereby amended to read as follows:**

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to

subsection 3 of NRS 391.120 ***or section 3 of this act*** for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, for demotion, suspension or dismissal apply to them.

Sec. 8. **The provisions of this act apply to any employee who fails to maintain his license in force on or after July 1, 2007.**

Sec. 9. **This act becomes effective on July 1, 2007.**

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 437.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 452.

AN ACT relating to drivers' licenses; requiring the Department of Motor Vehicles to establish a program to imprint certain indicators of a medical condition on a driver's license or identification card; ~~[providing for a fee;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to establish a program for the imprinting of a symbol or other indicator of a medical condition on a driver's license issued by the Department and requires the Department to give a person the opportunity to request such a symbol or indicator should the Department choose to establish such a program. (NRS 483.340, 483.3485) This bill requires the Department to establish such a program . ~~[and establishes a fee of $2 for the placement of such a symbol or indicator on a driver's license.]~~

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

Section 1. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique

number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the organ donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with an organization which registers as donors persons who desire to make anatomical gifts.

(d) ~~[If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to~~

~~NRS 483.3485, give]~~ ***Give*** the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license ~~[.]~~ ***as provided for by the program established pursuant to subsection 1 of NRS 483.3485.***

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the organ donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 2. NRS 483.3485 is hereby amended to read as follows:

483.3485 1. The Department ~~[may adopt regulations establishing]~~ ***shall establish by regulation*** a program for the imprinting of a symbol or other indicator of a medical condition on a driver's license issued by the Department.

2. Regulations adopted pursuant to subsection 1 must require the symbol or other indicator of a medical condition which is imprinted on a driver's license to conform with the ***International Classification of Diseases, Ninth Revision, Clinical Modification***, or the most current revision, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services.

3. The Department may apply for and accept any gift, grant, appropriation or other donation to assist in carrying out a program established pursuant to the provisions of this section.

Sec. 3. ~~[NRS 483.410 is hereby amended to read as follows:~~

~~483.410 1. Except as otherwise provided in subsection 6 and NRS 483.417, for every driver's license, including a motorcycle driver's license, issued and service performed, the following fees must be charged:~~

~~An original or renewal license issued to a person 65 years of age or older $13.50~~

~~An original or renewal license issued to any person less than 65 years of age 18.50~~

~~Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385 $40.00~~

~~Reinstatement of a license after revocation for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385 65.00~~

~~A new photograph, change of name, change of other information, except address, or any combination 5.00~~

~~A duplicate license 14.00~~

~~*An imprint of a symbol or other indicator of a medical condition on the driver's license pursuant to paragraph (d) of subsection 5 of NRS 483.340* *2.00*~~

~~2. For every motorcycle endorsement to a driver's license, a fee of $5 must be charged.~~

~~3. If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.~~

~~4. Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.~~

~~5. A penalty of $10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.~~

~~6. The Department may not charge a fee for the reinstatement of a driver's license that has been:~~

~~(a) Voluntarily surrendered for medical reasons; or~~

~~(b) Cancelled pursuant to NRS 483.310.~~

~~7. All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.~~

~~8. Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.]~~

(Deleted by amendment.)

Sec. 4. ~~[NRS 483.820 is hereby amended to read as follows:~~

~~483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if he is:~~

~~(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or~~

~~(b) A seasonal resident who does not hold a valid Nevada driver's license.~~

~~2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:~~

~~An original or duplicate identification card issued to a person 65 years of age or older $4~~

~~An original or duplicate identification card issued to a person under 18 years of age 3~~

~~A renewal of an identification card for a person under 18 years of age 3~~

~~An original or duplicate identification card issued to any other person 9~~

~~A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age 9~~
~~A new photograph or change of name, or both 4~~
~~*An imprint of a symbol or other indicator of a medical condition on the identification card pursuant to paragraph (d) of subsection 5 of NRS 483.840* 2~~

~~3. The Department shall not charge a fee for:~~

~~(a) An identification card issued to a person who has voluntarily surrendered his driver's license pursuant to NRS 483.420; or~~

~~(b) A renewal of an identification card for a person 65 years of age or older.~~

~~4. Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.~~

~~5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 483.840 is hereby amended to read as follows:

483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.

2. Identification cards do not authorize the operation of any motor vehicles.

3. Identification cards must include the following information concerning the holder:

(a) The name and sample signature of the holder.

(b) A unique identification number assigned to the holder that is not based on the holder's social security number.

(c) A personal description of the holder.

(d) The date of birth of the holder.

(e) The current address of the holder in this State.

(f) A colored photograph of the holder.

4. The information required to be included on the identification card pursuant to subsection 3 must be placed on the card in the manner specified in subsection 1 of NRS 483.347.

5. At the time of the issuance or renewal of the identification card, the Department shall:

(a) Give the holder the opportunity to have indicated on his identification card that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to indicate whether he wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the organ donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry

out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with an organization which registers as donors persons who desire to make anatomical gifts.

(d) ~~[If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give]~~ ***Give*** the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his identification card ~~[.]~~ ***as provided for by the program established pursuant to subsection 1 of NRS 483.863.***

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the organ donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

8. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 6. NRS 483.863 is hereby amended to read as follows:

483.863 1. The Department ~~[may adopt regulations establishing]~~ ***shall establish by regulation*** a program for the imprinting of a symbol or other indicator of a medical condition on an identification card issued by the Department.

2. Regulations adopted pursuant to subsection 1 must require the symbol or other indicator of a medical condition which is imprinted on an identification card to conform with the ***International Classification of Diseases, Ninth Revision, Clinical Modification***, or the most current revision, adopted by the National Center for Health Statistics and the Centers for Medicare and Medicaid Services.

3. The Department may apply for and accept any gift, grant, appropriation or other donation to assist in carrying out a program established pursuant to the provisions of this section.

Assemblyman Manendo moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 459.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 373.

AN ACT relating to education; making various changes relating to teachers; **requiring the board of trustees of larger school districts to**

create an office of teacher advocacy and school climate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides specified rights for a teacher in a meeting with an administrator or representative of a school district which involves the performance, employment status, discipline or transfer of the teacher, or any complaint made by the teacher concerning his working conditions or the manner in which he has been treated. Section 3 of this bill regulates investigations of administrators of school districts which are requested by teachers. Section 4 of this bill specifies the written notice which must be provided to a teacher against whom an allegation of improper conduct or performance is made. ~~[Section 5 of this bill provides that if the termination of the employment of a teacher is subsequently overturned by an arbitrator, the teacher is entitled to full back pay for all missed days of work and is not required to mitigate his damages.]~~ Section 6 of this bill imposes restrictions on the involuntary transfer **or reassignment** of a teacher . ~~[within a school or between schools.]~~ Section 7 of this bill requires each school district to adopt a written policy prohibiting the intimidation, humiliation, abuse or mistreatment of teachers.

Section 8 of this bill requires the board of trustees of a school district in a county whose population is 400,000 or more to create an office of teacher advocacy and school climate.

Under existing law, a licensed employee of a school district who is suspended from employment must be reinstated with full compensation, plus interest, if sufficient grounds for dismissal from employment do not exist. (NRS 391.314) Section 12 of this bill provides that the reinstated employee is entitled to full compensation, plus interest, for all missed days of work and that the employee is not required to mitigate damages.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **8,** inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided by NRS 391.3116 or other specific statute, any meeting between a teacher and an administrator or representative of a school district which involves the performance, employment status, discipline or transfer of the teacher, or any complaint made by the teacher concerning his working conditions or the manner in which he has been treated, is subject to the provisions of this section.***

2. If the administrator or representative of the school district knows that a meeting which is scheduled with a teacher is subject to the provisions of this section, the administrator or representative shall inform the teacher of that fact in writing not less than 24 hours before the meeting.

3. The teacher may select any person to represent him at the meeting and may, at his own expense, record the meeting by use of a recording device or a court reporter.

4. If a meeting which is not subject to the provisions of this section is held between a teacher and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the teacher must, upon request, be granted an immediate continuance of the meeting for not less than 24 hours to arrange for a person to represent him at the meeting and to arrange for the recording of the meeting.

5. If an administrator or representative of a school district determines in good faith that the circumstances require that a meeting which is subject to the provisions of this section be held on an emergency basis, the meeting must address only such circumstances and the teacher may select any other teacher to attend the meeting with him.

6. A teacher who wishes to request a meeting which is subject to the provisions of this section concerning a complaint about his working conditions or the manner in which he has been treated shall, in writing, notify the school district of the complaint and request such a meeting.

Sec. 3. ***1. If a teacher or his representative requests in writing the investigation of an administrator and provides facts which justify the investigation, the school district may not appoint another administrator or the superintendent to conduct the investigation unless the teacher agrees in writing. If the teacher does not so agree, the school district shall, at its own expense, appoint a disinterested person to conduct the investigation.***

2. An investigation conducted pursuant to subsection 1 must be conducted with reasonable timeliness.

3. Upon the conclusion of the investigation, the school district shall ensure that the teacher is provided with:

(a) The detailed written results of the investigation; and

(b) A written report detailing all investigative efforts, including the names and addresses of all persons interviewed, written statements of each administrator who is the subject of the complaint and identification of all documents examined.

Sec. 4. ***1. Before a school district may require a teacher to respond to an allegation of improper conduct or performance, the school district must provide the teacher with a detailed written notice of the allegation, including the names of all accusers and the date, time, place of, and a detailed explanation concerning, the alleged improper conduct or performance. If such written notice is not provided before an investigative interview, the teacher may refuse to answer questions and may not be disciplined for that refusal.***

2. A teacher against whom an allegation of improper conduct or performance is made may submit to the school district a list of witnesses who will testify on his behalf. If a teacher submits such a list, the witnesses

must be interviewed in full before the teacher may be disciplined with respect to the allegation.

Sec. 5. ~~[If the employment of a teacher is terminated and the termination is subsequently overturned by an arbitrator, the teacher is entitled to full back pay for all missed days of work and is not required to mitigate his damages. Any decision of an arbitrator that is inconsistent with the provisions of this section is not enforceable to the extent of the inconsistency.]~~ **(Deleted by amendment.)**

Sec. 6. ***1.*** ~~[A teacher may be involuntarily transferred within a school or between schools only if:~~

~~(a) The transfer is necessary because of a budgetary emergency; and~~

~~(b) The teacher does not refuse the transfer based on seniority, if applicable.]~~ ***Any involuntary transfer or reassignment of a teacher must be based upon assignment and seniority and may not be made as a form of discipline.***

2. Any transfer or reassignment of a teacher, or any attempted transfer or reassignment of a teacher , in violation of this section is prima facie evidence of the abuse and mistreatment of the teacher.

Sec. 7. ***1. Each school district shall adopt and enforce a written policy prohibiting administrators or their agents from committing any act or making any statement which:***

(a) Intimidates, humiliates, abuses or mistreats teachers;

(b) Constitutes a misuse of their power with respect to teachers; or

(c) Is intended to convince teachers to waive their rights pursuant to sections 2 to 7, inclusive, of this act.

2. The policy must include penalties for its violation, including suspension and loss of pay.

3. The school district shall ensure that a copy of the policy is provided to each teacher who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.

Sec. 8. The board of trustees of each school district in a county whose population is 400,000 or more shall:

1. Create an office of teacher advocacy and school climate; and

2. Appoint a qualified person to serve as the director of the office who has experience in human resources.

~~[Sec. 8.]~~ ***Sec. 9.*** NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, ***and sections 2 to 7, inclusive, of this act,*** unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, ***and sections 2 to 7, inclusive, of this act*** is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

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

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

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

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

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, ***and sections 2 to 7, inclusive, of this act*** do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, ***and sections 2 to 7, inclusive, of this act*** do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, ***and sections 2 to 7, inclusive, of this act*** for demotion, suspension or dismissal apply to them.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 391.3116 is hereby amended to read as follows:

391.3116 ***1.*** The provisions of NRS 391.311 to 391.3197, inclusive, ~~[and sections 2 to 7, inclusive, of this act]~~ do not apply to a teacher, administrator, or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

2. The provisions of sections 2 to 7, inclusive, of this act do not apply to a teacher, administrator or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains provisions which conflict with sections 2 to 7, inclusive, of this act.

Sec. 12. **NRS 391.314 is hereby amended to read as follows:**

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

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

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with ***, and is entitled to,*** full compensation, plus interest ~~[.]~~ ***, for all missed days of work. The employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this subsection is invalid to the extent of the inconsistency.***

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

An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.200 to 179D.290, inclusive, or 179D.350 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

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

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

~~[Sec. 11.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2007.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 521.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 364.

AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; revising provisions relating to the crime of racketeering; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section 2 of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions **within 4 years after the completion of the first transaction** by ~~[: (1)]~~ **engaging in**

an act, practice or course of business or employing a device, scheme or artifice to defraud ~~[, (2)]~~ **another person by** making an untrue statement of fact or not stating a material fact necessary in light of the circumstances ~~[, or (3) engaging in an act, practice or course of business which operates as a fraud or deceit upon another person.]~~ **which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact.** (NRS 90.570) Section 1 of this bill imposes an additional penalty against a person who commits the new crime established by section 2 against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) Section 3 of this bill revises the definition of a crime related to racketeering to include the new crime established by section 2. Section 5 of this bill provides that a prosecution of the new crime established by section 2 must be commenced within 4 years after the crime is committed.

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) Section 4 of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, section 4 prohibits a person who knows that property represents proceeds of any unlawful activity to conduct or attempt to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery;

(g) Sexual assault;

(h) Embezzlement of money or property of a value of $250 or more;

(i) Obtaining money or property of a value of $250 or more by false pretenses; or

(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by

this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS ***or section 2 of this act*** against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the criminal violation. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not, in the course of an enterprise or occupation, knowingly ~~[or intentionally:]~~ ***and with the intent to defraud,***

~~[~~ ~~(a) Employ a device, scheme or artifice to defraud;~~

~~(b) Make an untrue statement of material fact or omit to state a material fact necessary to make statements made not misleading in light of the circumstances under which the statements are made; or~~

~~(c) Engage]~~ ***engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person*** ~~[,]~~ ***by means of a false representation or omission of a material fact that:***

(a) The person knows to be false;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

➥ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents ~~[.]~~ ***within 4 years and in which the aggregate loss or intended loss is more than $250.***

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 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 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 3. NRS 207.360 is hereby amended to read as follows:

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

1. Murder;

2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;

3. Mayhem;

4. Battery which is punished as a felony;

5. Kidnapping;

6. Sexual assault;

7. Arson;

8. Robbery;

9. Taking property from another under circumstances not amounting to robbery;

10. Extortion;

11. Statutory sexual seduction;

12. Extortionate collection of debt in violation of NRS 205.322;

13. Forgery;

14. Any violation of NRS 199.280 which is punished as a felony;

15. Burglary;

16. Grand larceny;

17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;

18. Battery with intent to commit a crime in violation of NRS 200.400;

19. Assault with a deadly weapon;

20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;

21. Receiving or transferring a stolen vehicle;

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

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

24. Receiving, possessing or withholding stolen goods valued at $250 or more;

25. Embezzlement of money or property valued at $250 or more;

26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;

28. Offering false evidence;

29. Any violation of NRS 201.300 or 201.360;

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

31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~

32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ ***; or***

33. Any violation of section 2 of this act.

Sec. 4. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) ***To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.***

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section 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 may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

Sec. 5. NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 **,** ~~[or]~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 ***or a violation of section 2 of this act*** must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 529.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 476.

AN ACT relating to the State Fire Marshal; clarifying that, with certain exceptions, regulations adopted by the State Fire Marshal concerning building codes do not apply in certain larger counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Fire Marshal is required to enforce all laws and adopt regulations relating, in pertinent part, to the safety, access, means and adequacy of exit in case of fire from certain buildings used by the public. (NRS 477.030) In accordance with this duty, the State Fire Marshal has adopted by reference in regulation the ***International Building Code***, 2003 edition, Volumes 1 and 2, with certain changes. (NAC 477.281, 477.283) Although the regulations adopted by the State Fire Marshal apply throughout the State, the State Fire Marshal is only authorized under existing law to enforce those regulations: (1) with respect to buildings owned or occupied by the State; and (2) in counties whose population is less than 100,000 other than consolidated municipalities (currently counties other than Clark and Washoe Counties and Carson City). In counties whose population is 100,000 or more (currently Clark and Washoe Counties and Carson City), the local jurisdictions in those counties are required to enforce the regulations of the State Fire Marshal except if a local jurisdiction in such a county requests the State Fire Marshal to perform such enforcement. (NRS 477.030) Existing law also authorizes the governing body of a city or county to adopt building codes and authorizes boards of county commissioners to regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county. (NRS 244.3675, 268.413, 278.580)

This bill makes the regulations adopted by the State Fire Marshal concerning building codes inapplicable in a county whose population is 400,000 or more (currently Clark County) **if** that **county** has adopted a ~~[building code,]~~ **code at least as stringent as the edition of the *International Fire Code* most recently published,** except with respect to buildings owned or occupied by the State and public schools and except in a local jurisdiction in such a county in which the State Fire Marshal is requested to enforce those regulations by the chief executive officer of the jurisdiction.

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

Section 1. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ ~~[The]~~ ***Except as otherwise provided in subsection 12, the*** regulations of the State Fire Marshal apply throughout the State, but ~~[,]~~ except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) ~~[Assist]~~ ***Except as otherwise provided in subsection 12, assist*** in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State, do not apply in a county whose population is 400,000 or more that has adopted a ~~[building code,]~~ ***code at least as stringent as the edition of the International Fire Code most recently published, except with respect to state-owned or state-occupied buildings or public schools in such a county and except in those local jurisdictions in such a county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this subsection, "public school" has the meaning ascribed to it in NRS 385.007.***

Sec. 2. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582 ***,*** ~~[and]~~ 444.340 to 444.430, inclusive, ***and 477.030,*** the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as

may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada, the Nevada System of Higher Education or any school district.

Sec. 3. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582 **,** ~~[and]~~ 444.340 to 444.430, inclusive, ***and 477.030,*** the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada, the Nevada System of Higher Education or any school district.

Sec. 4. This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 536.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 190.

SUMMARY— ~~[Transfers certain authority concerning enforcement of child support and related services from the district attorneys to the Division of Welfare and Supportive Services of the Department of Health and Human Services.]~~ **Requires certain reports to be submitted to the 75th Session of the Nevada Legislature regarding the status of certain recommendations concerning child support enforcement.** (BDR ~~[38]~~ **S**-1405)

AN ACT relating to child support; ~~[prospectively transferring the authority for a program for the enforcement of child support and related services from district attorneys to the Division of Welfare and Supportive Services of the Department of Health and Human Services;]~~ requiring the District Attorney of Clark County **and the Division of Welfare and Supportive Services of the Department of Health and Human Services** to report to the 75th Session of the Nevada Legislature ~~[on]~~ **regarding** the status of certain recommendations concerning child support enforcement; ~~[requiring the Division of Welfare and Supportive Services and the district attorneys of this State to report to the 75th Session of the Nevada Legislature concerning plans for carrying out the prospective transfer;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides for the enforcement of obligations of child support under a program established pursuant to federal law through the district attorneys of this State, in conjunction with the Division of Welfare and~~

~~Supportive Services of the Department of Health and Human Services. (Chapter 425 of NRS) This bill transfers all authority for that program to the Division of Welfare and Supportive Services, effective July 1, 2011. Section 3 of this bill requires the Chief of the Program to establish three regional offices to carry out the program, and requires each county to contribute to the funding of the program. Section 4 of this bill authorizes the Administrator of the Division to contract with the district attorneys to assist in carrying out the program.~~

~~Section 290 of this bill requires the District Attorney of Clark County to report to the 75th Session of the Nevada Legislature concerning reviews conducted of the child support system by Policy Studies Inc. and MAXIMUS. Section 291 of this bill requires the Division of Welfare and Supportive Services and the district attorneys of this State to prepare for the transition of duties and to report to the 75th Session of the Nevada Legislature concerning plans for carrying out the prospective transfer of the authority for the program.~~]

This bill requires the District Attorney of Clark County to prepare a report for submission to the 75th Session of the Nevada Legislature concerning the progress made in carrying out recommendations that were provided to the District Attorney concerning the Family Support Division of the Office of the District Attorney in a report made in 2003. This bill further requires the Division of Welfare and Supportive Services of the Department of Health and Human Services to prepare a report for submission to the 75th Session of the Nevada Legislature concerning the progress made towards carrying out recommendations contained in an audit from 2006 concerning the enforcement of child support in this State. The district attorneys of this State are required to cooperate with and provide to the Division any information necessary for inclusion in the report. This bill further specifies additional topics to be included in the report from the Division. The report by the District Attorney and the report by the Division must be submitted to the Director of the Legislative Counsel Bureau not later than September 1, 2008.

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

Delete existing sections 1 through 293 of this bill and replace with the following new section 1:

Section 1. **1. The District Attorney of Clark County shall prepare a report concerning the manner in which the recommendations have been carried out or the status of such recommendations that are contained in the July 2, 2003, report entitled "Organizational Assessment of the Clark County, Nevada, District Attorney's Family Support Division," which was submitted to the District Attorney by Policy Studies Inc.**

2. The Division of Welfare and Supportive Services of the Department of Health and Human Services shall prepare a report providing the manner in which the recommendations contained the December 22, 2006, "Performance Audit of the State of Nevada's Enforcement and Collection of Child Support" prepared by MAXIMUS have been carried out or the status of such recommendations. Each district attorney in this State shall cooperate with the Division and provide the necessary information to the Division for inclusion in the report. The report must include, without limitation, the status of, or the manner in which the Division and the district attorneys have carried out, specific recommendations to:

(a) Centralize processing of cases and call center functions;

(b) Measure the success of the Program for the Enforcement of Child Support through performance measures rather than policy adherence;

(c) Improve reporting by management;

(d) Develop and adhere to a strategic plan; and

(e) Develop a document imaging system.

3. The report prepared pursuant to subsection 2 must also include, without limitation, information concerning:

(a) Strategic planning among the district attorneys of this State concerning the future funding for the enforcement of child support in Nevada;

(b) Programs to enforce child support in other states with a distribution of population which is similar to the distribution in Nevada;

(c) Options for creating a regional structure in Nevada and whether such options would enhance efficiency and benefit the Program for the Enforcement of Child Support and the agencies involved in the collection of child support;

(d) Training programs that have been implemented for employees who assist in the collection of child support;

(e) An analysis of the benefits and detriments of using administrative hearing officers rather than masters in matters relating to the enforcement of child support; and

(f) The status of improvements in information technology, including, without limitation, technology for case management to replace the Nevada Operations of Multi-Automated Data Systems currently used in the collection of child support.

4. The reports prepared pursuant to this section must be submitted to the Director of the Legislative Counsel Bureau not later than September 1, 2008, for distribution to the 75th Session of the Nevada Legislature.

5. As used in this section, "Program for the Enforcement of Child Support" means the program established to locate absent parents, establish paternity and obtain child support pursuant to Part D of Title

IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and other provisions of that Act relating to the enforcement of child support.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 522.

Bill read second time and ordered to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bill No. 9; Assembly Concurrent Resolutions Nos. 19 and 20.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Grace Foley.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Double Diamond Elementary School: Connor Allison, Jessica Anderson, Bianca Blueian, Victor Brown, Guinivere Clark, Danielle Crowley, Chanelle Curd, McKenna Fortier, Sarah Hewitt, Thomas Hibbard, Trey Kaul, Joshua Lawson, Michael McBride, Sonja McBride, Keaton McCullough, Nancy Parr, Gari Peterson, Logan Pingel, Sarah Rader, Zachary Robertson, Charles Self, Jaida Sproed, Kaylee Summerville, Peyton Trujillo, Holly Velasco, Jacob Weiss, Chandler Williams, James Wilson, Jazmine Wright, Angelo Gabriel Zuniga, Derrick Ackroyd, Tayla Anderson, Meghan Barna, Stephon Bazemore, Kinor Boland, Alyssa Mae Carreon, Anthony Chartier, Mitchell Claussen, Devin Eckner, Jacob Hadden, Jordan Hadden, Monterio Hall, Thomas Hayward, Johana Kawelmacher, David Kennedy, Rayce Malmed, Charles Mancera, Darius Maxie, Michael Maynew, Brianna Memro, Rachel Munson, Jack Ray, Amber Sifert, Zachary Smirlock, Lauren Stegman, Kristofer Street, Kristian Trinidad, Kari Van Der Wal, Edronio Walter, and Landon Wickham; teachers Kay Henjum and Jennifer Luna.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from St. Viator School: Ogechi Amadi, Kaitlin Andrewjeski, Katelyn Barnett, Astrud Benson, James Bishop, Kimberly Briones, John Cadena, Christian Campbell, Mary Carothers, Kristofer Castillo, Elizabeth Charles, Bridget Cirone, Dalton Clark, Theresa Daly, Noah Delacalzada, Nicole Derosier, Tiffany Diersen, Nicholas Dion, Taylor Erling, Danielle Fayad, Chelsea Gamboa, Rachel Godby, William Hall, Lauren Healy, Joshua Herrick, Matthew Ho, Justin Holinski, Stephen Joseph, Rizhon King, Ruth Larmore, Erin Lousigmont, Billy Lovelace, Joseph Manfredi, Marty Mazzara, Aspen

Minden, Caleigh Morris, Erin Morse, Kyle Nowins, Mallika Pal, Andy Pasbakhsh, Nicholas Pfeiffer, Alexis Pollnow, Michael Puggi, Joy Saddi, Brian Salame, Stephanie Scaglione, Alejandra Sierra, Henock Sileshi, Erica Silvestri, Damani Smith, Jacob Snyder, Jimmy Spatafore, James Spatafore, Michaele Sullivan, Laney Tinnell, Jake Wasserkrug, Christian Wilhelm, Allyson Williams, Tina Williams, William Williams, Ratouille Pruna, Lauren Oldfield, Courtney McGowan, Sean McGahey, Tasha Joseph, Bradley Hahnfeld, Connor Burns, Scott Brenske, Gertie Burns, Harald Vogel and Daniel Cox; chaperones Anne Marie Fayad, Belinda Morse, Beth Puggi, Debra Barnett, Elise Carothers, Kirk Godby, Luke Desjarlais, Nina Queen, Pam Charles, Cynthia Parmentier, Terri Hanlon, and Veronica Pruna.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Edna Clem.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, April 20, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 12:38 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly