

**Amendment No. CA32**

First Conference Committee Amendment to (BDR 15-1062)  
Senate Bill No. 354 Third Reprint

**Proposed by:** First Conference Committee

**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

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MSN/RBL



Date: 6/3/2007

S.B. No. 354—Makes various changes to provisions relating to the safety of children. (BDR 15-1062)



SENATE BILL NO. 354—SENATOR HORSFORD

MARCH 19, 2007

JOINT SPONSOR: ASSEMBLYWOMAN KIRKPATRICK

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to the safety of children. (BDR 15-1062)

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

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

AN ACT relating to the safety of children; prohibiting the possession of certain firearms on the property of or in a vehicle of child care facilities; revising the definition of “firearm”; requiring children who are taken into custody for possession of a firearm while on school property to submit to an evaluation by a qualified professional and a drug test; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; revising the jurisdiction of school police officers under certain circumstances; and providing other matters property relating thereto.

**Legislative Counsel’s Digest:**

**Section 1** of this bill revises the definition of “firearm” for the purposes of the provision prohibiting the unlawful possession of a firearm while on school property. (NRS 202.265) **Section 1** further makes the provisions prohibiting a person from carrying or possessing certain firearms while on school grounds or in a vehicle of a school applicable to child care facilities **that are licensed pursuant to chapter 432A of NRS**. However, if the child care facility is located at or in the home of a natural person, those provisions do not apply to the owner or operator of the facility who resides in the home if he complies with all laws concerning possession of the weapon. In addition, the prohibition only applies with respect to such a facility during the normal hours of business. Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) **Section 3** of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property or at a child care facility to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) **Sections 4-6** of this bill prohibit such sex offenders from

establishing residences in a facility that houses more than three persons who have been released from prison unless the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer and establishes the jurisdiction of such officers. (NRS 391.275) **Section 8.5** of this bill expands the jurisdiction of school police officers in certain circumstances.

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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 ~~it~~ while on the property of the Nevada System of Higher Education, ~~it~~ a private or public school *or child care facility*, or while in a vehicle of a private or public school *or child care facility*:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles; ~~it~~
- (e) A pistol, revolver or other firearm ~~it~~; *or*

*(f) Any device used to mark any part of a person with paint or any other substance.*

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of ~~it~~:

*(a) A private or public school or child care facility by a:*

~~(a)~~ (1) Peace officer;

~~(b)~~ (2) School security guard; or

~~(c)~~ (3) 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 *or the person designated by a child care facility to give permission* to carry or possess the weapon.

*(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.*

*4. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.*

~~(4)~~ 5. For the purposes of this section:

*(a) "Childcare facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.*

*(b) "Firearm" includes:*

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

~~(2) Any~~ *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 a child care facility* 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 *subparagraph (3) of paragraph ~~(e)~~ (a)* of subsection 3 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”~~:

*(a) “Childcare facility” has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.*

*(b) “Public building” means any building or office space occupied by:*

~~(1)~~ *(1)* Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

~~(2)~~ *(2)* 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.** NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall , *if the child was taken into custody for:*

(a) *Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:*

(1) *Be evaluated by a qualified professional; and*

(2) *Submit to a test to determine whether the child is using any controlled substance.*

(b) *Committing an unlawful act involving a firearm other than the act described in paragraph (a),* determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~or to submit to a test to determine whether the child is using any controlled substance,~~ the evaluation *or the results from the test* must be completed not later than 14 days after the detention hearing. Until the evaluation *or the test* is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

6. As used in this section, "child care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

**Sec. 4.** NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime. ~~or~~

(b) Reside at a location only if ~~or~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant. ~~and keep~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The defendant keeps* the parole and probation officer informed of his current address. ~~or~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and

1 keep the parole and probation officer informed of the location of his position of  
2 employment or position as a volunteer. ~~(f)~~

3 (d) Abide by any curfew imposed by the parole and probation officer assigned  
4 to the defendant. ~~(f)~~

5 (e) Participate in and complete a program of professional counseling approved  
6 by the Division. ~~(f)~~

7 (f) Submit to periodic tests, as requested by the parole and probation officer  
8 assigned to the defendant, to determine whether the defendant is using a controlled  
9 substance. ~~(f)~~

10 (g) Submit to periodic polygraph examinations, as requested by the parole and  
11 probation officer assigned to the defendant. ~~(f)~~

12 (h) Abstain from consuming, possessing or having under his control any  
13 alcohol. ~~(f)~~

14 (i) Not have contact or communicate with a victim of the sexual offense or a  
15 witness who testified against the defendant or solicit another person to engage in  
16 such contact or communication on behalf of the defendant, unless approved by the  
17 parole and probation officer assigned to the defendant, and a written agreement is  
18 entered into and signed in the manner set forth in subsection 2. ~~(f)~~

19 (j) Not use aliases or fictitious names. ~~(f)~~

20 (k) Not obtain a post office box unless the defendant receives permission from  
21 the parole and probation officer assigned to the defendant. ~~(f)~~

22 (l) Not have contact with a person less than 18 years of age in a secluded  
23 environment unless another adult who has never been convicted of a sexual offense  
24 is present and permission has been obtained from the parole and probation officer  
25 assigned to the defendant in advance of each such contact. ~~(f)~~

26 (m) Unless approved by the parole and probation officer assigned to the  
27 defendant and by a psychiatrist, psychologist or counselor treating the defendant, if  
28 any, not be in or near:

29 (1) A playground, park, school or school grounds;

30 (2) A motion picture theater; or

31 (3) A business that primarily has children as customers or conducts events  
32 that primarily children attend. ~~(f)~~

33 (n) Comply with any protocol concerning the use of prescription medication  
34 prescribed by a treating physician, including, without limitation, any protocol  
35 concerning the use of psychotropic medication. ~~(f)~~

36 (o) Not possess any sexually explicit material that is deemed inappropriate by  
37 the parole and probation officer assigned to the defendant. ~~(f)~~

38 (p) Not patronize a business which offers a sexually related form of  
39 entertainment and which is deemed inappropriate by the parole and probation  
40 officer assigned to the defendant. ~~(f)~~

41 (q) Not possess any electronic device capable of accessing the Internet and not  
42 access the Internet through any such device or any other means, unless possession  
43 of such a device or such access is approved by the parole and probation officer  
44 assigned to the defendant. ~~(f-and)~~

45 (r) Inform the parole and probation officer assigned to the defendant if the  
46 defendant expects to be or becomes enrolled as a student at an institution of higher  
47 education or changes the date of commencement or termination of his enrollment at  
48 an institution of higher education. As used in this paragraph, "institution of higher  
49 education" has the meaning ascribed to it in NRS 179D.045.

50 2. A written agreement entered into pursuant to paragraph (i) of subsection 1  
51 must state that the contact or communication is in the best interest of the victim or

witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

**Sec. 5.** NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:*

*(a) The residence has been approved by the parole and probation officer assigned to the person.*

*(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

*(c) The person keeps the parole and probation officer informed of his current address.*

4. *The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, 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 may be further punished by a fine of not more than \$5,000.

~~6.~~ 6. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct

constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~5-7~~ 7. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

(b) "Minor violation" means a violation that does not constitute a major violation.

**Sec. 6.** NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~it is~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the parolee. ~~and keep~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The parolee keeps* the parole and probation officer informed of his current address. ~~it is~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~it is~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee. ~~it is~~

(d) Participate in and complete a program of professional counseling approved by the Division. ~~it is~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance. ~~it is~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee. ~~it is~~

(g) Abstain from consuming, possessing or having under his control any alcohol. ~~it is~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2. ~~it is~~

(i) Not use aliases or fictitious names. ~~it is~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee. ~~++~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact. ~~++~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend. ~~++~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. ~~++~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~++~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~++~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee. ~~++and++~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** (Deleted by amendment.)

**Sec. 8.5.** NRS 391.275 is hereby amended to read as follows:

391.275 **1.** The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district ~~++~~ for the purpose of:

~~++~~ (a) Protecting school district personnel, pupils, or real or personal property; or

~~(2-1)~~ (b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. *In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:*

(a) *Beyond the school property, buildings and facilities when in hot pursuit of a person believed to have committed a crime;*

(b) *At activities or events sponsored by the school district that are in a location other than the property, buildings or facilities within the school district; and*

(c) *When authorized by the superintendent of schools of the school district, on the streets that are adjacent to the school property, buildings and facilities within the school district for the purpose of issuing traffic citations for violations of traffic laws and ordinances during the times that the school is in session or school-related activities are in progress.*

**Sec. 9.** NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➤ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs

(a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

*↪ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.*

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

**Sec. 10.** The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;

2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.