

Senate Bill No. 338—Senators Cegavske, Hutchison, Denis, Spearman, Segerblom; Atkinson, Brower, Ford, Goicoechea, Gustavson, Hammond, Hardy, Jones, Kieckhefer, Kihuen, Manendo, Parks, Roberson, Settlemeyer, Smith and Woodhouse

Joint Sponsors: Assemblymen Fiore, Carrillo;
Grady, Hickey and Kirkpatrick

CHAPTER.....

AN ACT relating to mental health; changing the term “mental retardation” to “intellectual disability” and related terms in a similar manner in the Nevada Revised Statutes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that it is the policy of this State that persons with intellectual disabilities and persons with related conditions are referred to using language which is commonly viewed as respectful and which refers to the person before referring to his or her disability. (NRS 435.009) Existing law also establishes that the term “persons with intellectual disabilities” is preferred and that the terms “mental retardation” and “mentally retarded” are not preferred. (NRS 220.125) **Sections 1-119** of this bill replace the term “mental retardation” with “intellectual disability,” replace the term “mentally retarded” with “intellectually disabled” and change other similar words and terms in a similar manner. These changes are intended to mirror changes made by the federal law commonly cited as “Rosa’s Law.” (Pub. L. No. 111-256) **Section 120** of this bill provides that the amendatory provisions of this bill shall be construed as nonsubstantive and that it is not the intent of the Nevada Legislature to modify any existing application, construction or interpretation of any statute which has been so amended.

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

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

Section 1. NRS 433.003 is hereby amended to read as follows:
433.003 The Legislature hereby declares that it is the intent of this title:

1. To eliminate the forfeiture of any civil and legal rights of any person and the imposition of any legal disability on any person, based on an allegation of mental illness or ~~mental retardation~~ *intellectual disability* or a related condition, by any method other than a separate judicial proceeding resulting in a determination of incompetency, wherein the civil and legal rights forfeited and the legal disabilities imposed are specifically stated; and



2. To charge the Division of Mental and Developmental Services, and the Division of Child and Family Services, of the Department with recognizing their duty to act in the best interests of their respective consumers by placing them in the least restrictive environment.

Sec. 2. NRS 433.014 is hereby amended to read as follows:

433.014 "Administrative officer" means a person with overall executive and administrative responsibility for those state or nonstate mental health or ~~{mental-retardation}~~ *intellectual disability* facilities designated by the Administrator.

Sec. 3. NRS 433.134 is hereby amended to read as follows:

433.134 "Medical director" means the chief medical officer of any division mental health or ~~{mental-retardation}~~ *intellectual disability* program.

Sec. 4. NRS 433.174 is hereby amended to read as follows:

433.174 ~~{"Mental-retardation"}~~ *"Intellectual disability"* means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

Sec. 5. NRS 433.184 is hereby amended to read as follows:

433.184 ~~{"Mental-retardation"}~~ *"Intellectual disability center"* means an organized program for providing appropriate services and treatment to persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions. ~~{A-mental-retardation}~~ *An intellectual disability* center may include facilities for residential treatment and training.

Sec. 6. NRS 433.211 is hereby amended to read as follows:

433.211 "Persons with related conditions" means persons who have a severe, chronic disability which:

1. Is attributable to:

(a) Cerebral palsy or epilepsy; or

(b) Any other condition, other than mental illness, found to be closely related to ~~{mental-retardation}~~ *an intellectual disability* because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with ~~{mental-retardation}~~ *an intellectual disability* and requires treatment or services similar to those required by a person with ~~{mental-retardation}~~ *an intellectual disability*;

2. Is manifested before the person affected attains the age of 22 years;

3. Is likely to continue indefinitely; and

4. Results in substantial functional limitations in three or more of the following areas of major life activity:



- (a) Taking care of oneself;
- (b) Understanding and use of language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction; and
- (f) Capacity for independent living.

Sec. 7. NRS 433.214 is hereby amended to read as follows:

433.214 "Training" means a program of services directed primarily toward enhancing the health, welfare and development of persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions through the process of providing those experiences that will enable the person to:

- 1. Develop his or her physical, intellectual, social and emotional capacities to the fullest extent;
- 2. Live in an environment that is conducive to personal dignity; and
- 3. Continue development of those skills, habits and attitudes essential to adaptation in contemporary society.

Sec. 8. NRS 433.233 is hereby amended to read as follows:

433.233 1. The division facilities providing mental health services are designated as:

- (a) Northern Nevada Adult Mental Health Services;
- (b) Southern Nevada Adult Mental Health Services;
- (c) Rural clinics; and
- (d) Lakes Crossing Center.

2. The division facilities providing services for persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions are designated as:

- (a) Desert Regional Center;
- (b) Sierra Regional Center; and
- (c) Rural Regional Center.

3. Division facilities established after July 1, 1981, must be named by the Administrator, subject to the approval of the Director of the Department.

Sec. 9. NRS 433.244 is hereby amended to read as follows:

433.244 1. The Administrator must have:

- (a) Training and demonstrated administrative qualities of leadership in any one of the professional fields of psychiatry, medicine, psychology, social work, education or administration; and
- (b) Administrative training or experience in programs relating to mental health, including care, treatment or training, or any combination thereof, of persons with mental illness or ~~{mental~~



~~retardation~~ *intellectual disabilities* and persons with related conditions.

2. The Administrator is in the unclassified service of the State.

Sec. 10. NRS 433.279 is hereby amended to read as follows:

433.279 1. The Division shall carry out a vocational and educational program for the certification of ~~mental health mental retardation~~ *mental health-intellectual disability* technicians, including forensic technicians:

(a) Employed by the Division, or other employees of the Division who perform similar duties, but are classified differently.

(b) Employed by the Division of Child and Family Services of the Department.

↳ The program must be carried out in cooperation with the Nevada System of Higher Education.

2. A ~~mental health mental retardation~~ *mental health-intellectual disability* technician is responsible to the director of the service in which his or her duties are performed. The director of a service may be a licensed physician, dentist, podiatric physician, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse or other professionally qualified person. This section does not authorize a ~~mental health mental retardation~~ *mental health-intellectual disability* technician to perform duties which require the specialized knowledge and skill of a professionally qualified person.

3. The Division shall adopt regulations to carry out the provisions of this section.

4. As used in this section, ~~“mental health mental retardation”~~ *“mental health-intellectual disability technician”* means an employee of the Division of Mental Health and Developmental Services or the Division of Child and Family Services who, for compensation or personal profit, carries out procedures and techniques which involve cause and effect and which are used in the care, treatment and rehabilitation of persons with mental illness or ~~mental retardation~~ *intellectual disabilities*, persons who are emotionally disturbed and persons with related conditions, and who has direct responsibility for:

(a) Administering or carrying out specific therapeutic procedures, techniques or treatments, excluding medical interventions, to enable consumers to make optimal use of their therapeutic regime, their social and personal resources, and their residential care; or

(b) The application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of



consumers, for the accurate recording of such symptoms and reactions, and for carrying out treatments authorized by members of the interdisciplinary team that determines the treatment of the consumers.

Sec. 11. NRS 433.314 is hereby amended to read as follows:

433.314 The Commission shall:

1. Establish policies to ensure adequate development and administration of services for persons with mental illness, ~~mental retardation~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions, including services to prevent mental illness, ~~mental-retardation~~ *intellectual disabilities* and co-occurring disorders and related conditions, and services provided without admission to a facility or institution;
2. Set policies for the care and treatment of persons with mental illness, ~~mental-retardation~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions provided by all state agencies;
3. Review the programs and finances of the Division; and
4. Report at the beginning of each year to the Governor and at the beginning of each odd-numbered year to the Legislature on the quality of the care and treatment provided for persons with mental illness, ~~mental-retardation~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions in this State and on any progress made toward improving the quality of that care and treatment.

Sec. 12. NRS 433.316 is hereby amended to read as follows:

433.316 The Commission may:

1. Collect and disseminate information pertaining to mental health, ~~mental-retardation~~ *intellectual disabilities* and co-occurring disorders and related conditions.
2. Request legislation pertaining to mental health, ~~mental-retardation~~ *intellectual disabilities* and co-occurring disorders and related conditions.
3. Investigate complaints about the care of any person in a public facility for the treatment of persons with mental illness, ~~mental-retardation~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions.
4. Accept, as authorized by the Legislature, gifts and grants of money and property.
5. Take appropriate steps to increase the availability of and to enhance the quality of the care and treatment of persons with mental illness, ~~mental-retardation~~ *intellectual disabilities* or co-occurring



disorders and persons with related conditions provided through state agencies, hospitals and clinics.

6. Promote programs for the treatment of persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions and participate in and promote the development of facilities for training persons to provide services for persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions.

7. Create a plan to coordinate the services for the treatment of persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions provided in this State and to provide continuity in the care and treatment provided.

8. Establish and maintain an appropriate program which provides information to the general public concerning mental illness, ~~{mental-retardation}~~ *intellectual disabilities* and co-occurring disorders and related conditions and consider ways to involve the general public in the decisions concerning the policy on mental illness, ~~{mental-retardation}~~ *intellectual disabilities* and co-occurring disorders and related conditions.

9. Compile statistics on mental illness and study the cause, pathology and prevention of that illness.

10. Establish programs to prevent or postpone the commitment of residents of this State to facilities for the treatment of persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions.

11. Evaluate the future needs of this State concerning the treatment of mental illness, ~~{mental-retardation}~~ *intellectual disabilities* and co-occurring disorders and related conditions and develop ways to improve the treatment already provided.

12. Take any other action necessary to promote mental health in this State.

Sec. 13. NRS 433.318 is hereby amended to read as follows:

433.318 1. The Commission may appoint a subcommittee or an advisory committee composed of members who have experience and knowledge of matters relating to persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and related conditions and who, to the extent practicable, represent the ethnic and geographic diversity of this State.

2. A subcommittee or advisory committee appointed pursuant to this section shall consider specific issues and advise the Commission on matters related to the duties of the Commission.



3. The members of a subcommittee or advisory committee appointed pursuant to this section serve at the pleasure of the Commission. The members serve without compensation, except that each member is entitled, while engaged in the business of the subcommittee or advisory committee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

Sec. 14. NRS 433.324 is hereby amended to read as follows:

433.324 1. The Commission shall adopt regulations:

(a) For the care and treatment of persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions by all state agencies and facilities, and their referral to private facilities;

(b) To ensure continuity in the care and treatment provided to persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions in this State; and

(c) Necessary for the proper and efficient operation of the facilities of the Division.

2. The Commission may adopt regulations to promote programs relating to mental health, ~~{mental-retardation}~~ *intellectual disabilities* and co-occurring disorders and related conditions.

Sec. 15. NRS 433.325 is hereby amended to read as follows:

433.325 The Commission or its designated agent may inspect any state facility providing services for persons with mental illness, ~~{mental-retardation}~~ *intellectual disabilities* or co-occurring disorders and persons with related conditions to determine if the facility is in compliance with the provisions of this title and any regulations adopted pursuant to those provisions.

Sec. 16. NRS 433.334 is hereby amended to read as follows:

433.334 The Division may, by contract with general hospitals or other institutions having adequate facilities in the State of Nevada, provide for inpatient care of consumers with mental illness or ~~{mental-retardation}~~ *intellectual disabilities* and consumers with related conditions.

Sec. 17. NRS 433.344 is hereby amended to read as follows:

433.344 The Division may contract with appropriate persons professionally qualified in the field of psychiatric mental health to provide inpatient and outpatient care for persons with mental illness or ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions when it appears that they can be treated best in that manner.



Sec. 18. NRS 433.395 is hereby amended to read as follows:

433.395 1. Upon approval of the Director of the Department, the Administrator may accept:

(a) Donations of money and gifts of real or personal property; and

(b) Grants of money from the Federal Government,
↳ for use in public or private programs that provide services to persons in this State with mental illness or ~~mental retardation~~ *intellectual disabilities* and persons with related conditions.

2. The Administrator shall disburse any donations, gifts and grants received pursuant to this section to programs that provide services to persons with mental illness or ~~mental retardation~~ *intellectual disabilities* and persons with related conditions in a manner that supports the plan to coordinate services created by the Commission pursuant to subsection 7 of NRS 433.316. In the absence of a plan to coordinate services, the Administrator shall make disbursements to programs that will maximize the benefit provided to persons with mental illness or ~~mental retardation~~ *intellectual disabilities* and persons with related conditions in consideration of the nature and value of the donation, gift or grant.

3. Within limits of legislative appropriations or other available money, the Administrator may enter into a contract for services related to the evaluation and recommendation of recipients for the disbursements required by this section.

Sec. 19. NRS 433.404 is hereby amended to read as follows:

433.404 1. The Division shall establish a fee schedule for services rendered through any program supported by the State pursuant to the provisions of chapters 433 to 436, inclusive, of NRS. The schedule must be submitted to the Commission and the Director of the Department for joint approval before enforcement. The fees collected by facilities operated by the Division pursuant to this schedule must be deposited in the State Treasury to the credit of the State General Fund, except as otherwise provided in NRS 433.354 for fees collected pursuant to contract or agreement and in NRS 435.120 for fees collected for services to consumers with ~~mental retardation~~ *intellectual disabilities* and related conditions.

2. For a facility providing services for the treatment of persons with mental illness or ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, the fee established must approximate the cost of providing the service, but if a consumer is unable to pay in full the fee established pursuant to this section, the Division may collect any amount the consumer is able to pay.



Sec. 20. NRS 433.424 is hereby amended to read as follows:

433.424 A mental health and ~~mental retardation~~ *intellectual disability* center revolving account up to the amount of \$5,000 is hereby created for each division mental health and ~~mental retardation~~ *intellectual disability* center, and may be used for the payment of mental health or ~~mental retardation~~ *intellectual disability* center bills requiring immediate payment and for no other purposes. The respective administrative officers shall deposit the money for the respective revolving accounts in one or more banks or credit unions of reputable standing. Payments made from each account must be promptly reimbursed from appropriated money of the respective mental health or ~~mental retardation~~ *intellectual disability* centers on claims as other claims against the State are paid.

Sec. 21. NRS 433.444 is hereby amended to read as follows:

433.444 1. For the purpose of facilitating the return of nonresident consumers to the state in which they have legal residence, the Administrator may enter into reciprocal agreements, consistent with the provisions of this title, with the proper boards, commissioners or officers of other states for the mutual exchange of consumers confined in, admitted or committed to a mental health or ~~mental retardation~~ *intellectual disability* facility in one state whose legal residence is in the other, and may give written permission for the return and admission to a division facility of any resident of this state when such permission is conformable to the provisions of this title governing admissions to a division facility.

2. The county clerk and board of county commissioners of each county, upon receiving notice from the Administrator that an application for the return of an alleged resident of this state has been received, shall promptly investigate and report to the Administrator their findings as to the legal residence of the consumer.

Sec. 22. NRS 433.458 is hereby amended to read as follows:

433.458 "Administrative officer" means a person with overall executive and administrative responsibility for a facility that provides services relating to mental health or ~~mental retardation~~ *intellectual disabilities* and related conditions and that is operated by any public or private entity.

Sec. 23. NRS 433.494 is hereby amended to read as follows:

433.494 1. An individualized written plan of mental health or ~~mental retardation~~ *intellectual disability* services or plan of services for a related condition must be developed for each consumer of each facility. The plan must:



(a) Provide for the least restrictive treatment procedure that may reasonably be expected to benefit the consumer; and

(b) Be developed with the input and participation of:

(1) The consumer, to the extent that he or she is able to provide input and participate; and

(2) To the extent that the consumer is unable to provide input and participate, the parent or guardian of the consumer if the consumer is under 18 years of age and is not legally emancipated, or the legal guardian of a consumer who has been adjudicated mentally incompetent.

2. The plan must be kept current and must be modified, with the input and participation of the consumer, the parent or guardian of the consumer or the legal guardian of the consumer, as appropriate, when indicated. The plan must be thoroughly reviewed at least once every 3 months.

3. The person in charge of implementing the plan of services must be designated in the plan.

Sec. 24. NRS 433A.012 is hereby amended to read as follows:

433A.012 “Administrative officer” means a person with overall executive and administrative responsibility for those state or nonstate facilities for mental health or ~~mental-retardation~~ *intellectual disabilities* designated by the Administrator.

Sec. 25. NRS 433A.020 is hereby amended to read as follows:

433A.020 The administrative officer of a facility of the Division must:

1. Be selected on the basis of training and demonstrated administrative qualities of leadership in any one of the fields of psychiatry, medicine, psychology, social work, education or administration.

2. Be appointed on the basis of merit as measured by administrative training or experience in programs relating to mental health, including care and treatment of persons with mental illness or ~~mental-retardation~~ *intellectual disabilities* and persons with related conditions.

3. Have additional qualifications which are in accordance with criteria prescribed by the Division of Human Resource Management of the Department of Administration.

Sec. 26. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, unless the context otherwise requires, “person with mental illness” means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person’s affairs and social relations or to care for his or her personal needs is diminished,



as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, ~~mental retardation,~~ *intellectual disability*, dementia, delirium, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person's death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to the person.

3. A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, and adequate treatment is provided to him or her.



Sec. 27. NRS 435.005 is hereby amended to read as follows:

435.005 Unless specifically excluded by law, the provisions of this chapter apply to all facilities within the Division offering services to persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions.

Sec. 28. NRS 435.007 is hereby amended to read as follows:

435.007 As used in this chapter, unless the context otherwise requires:

1. "Child" means any person under the age of 18 years who may be eligible for ~~{mental-retardation}~~ *intellectual disability* services or services for a related condition.

2. "Parent" means the parent of a child. The term does not include the parent of a person who has attained the age of 18 years.

3. "Person" includes a child and any other consumer with ~~{mental-retardation}~~ *an intellectual disability* or a related condition who has attained the age of 18 years.

4. "Residential facility for groups" means a structure similar to a private residence which will house a small number of persons in a homelike atmosphere.

Sec. 29. NRS 435.010 is hereby amended to read as follows:

435.010 1. The boards of county commissioners of the various counties shall make provision for the support, education and care of the children with ~~{mental-retardation}~~ *intellectual disabilities* and children with related conditions of their respective counties.

2. For that purpose, they are empowered to make all necessary contracts and agreements to carry out the provisions of this section and NRS 435.020 and 435.030. Any such contract or agreement may be made with any responsible person or facility in or without the State of Nevada.

3. The provisions of this section and NRS 435.020 and 435.030 supplement the services which other political subdivisions or agencies of the State are required by law to provide, and do not supersede or relieve the responsibilities of such political subdivisions or agencies.

Sec. 30. NRS 435.020 is hereby amended to read as follows:

435.020 All children with ~~{mental-retardation}~~ *intellectual disabilities* and children with related conditions are entitled to benefits under this section and NRS 435.010 and 435.030:

1. Who are unable to pay for their support and care;
2. Whose parents, relatives or guardians are unable to pay for their support and care; and



3. If division facilities are to be utilized, whom the Division recognizes as proper subjects for services within such division facilities.

Sec. 31. NRS 435.030 is hereby amended to read as follows:

435.030 1. A parent, relative, guardian or nearest friend of any child with ~~{mental-retardation}~~ *an intellectual disability* or any child with a related condition who is a resident of this State may file with the board of county commissioners of the proper county an application under oath stating:

(a) That the child meets the criteria set forth in NRS 435.020; and

(b) That the child requires services not otherwise required by law to be provided to the child by any other county, political subdivision or agency of this or any other state.

2. If the board of county commissioners is satisfied that the statements made in the application are true, the board shall issue a certificate to that effect.

3. The board of county commissioners shall make necessary arrangements for the transportation of a child with ~~{mental-retardation}~~ *an intellectual disability* or a child with a related condition to any responsible person or facility to be utilized pursuant to contract or agreement as designated in NRS 435.010 at the expense of the county.

4. A certificate of the board of county commissioners, when produced, shall be the authority of any responsible person or facility in or without the State of Nevada under contract with the board of county commissioners to receive any such child.

Sec. 32. NRS 435.060 is hereby amended to read as follows:

435.060 The Division may operate a residential facility for groups to care for and maintain persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions until they can live in a more normal situation.

Sec. 33. NRS 435.077 is hereby amended to read as follows:

435.077 1. The Administrator shall adopt regulations for the transfer of persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions from one facility to another facility operated by the Division.

2. Subject to the provisions of subsection 3, when the ~~{Associate}~~ Administrator ~~{for Mental-Retardation}~~ *or his or her designee* determines that it is in the best interest of the person, the ~~{Associate}~~ Administrator *or his or her designee* may discharge, or place on convalescent leave, any person with ~~{mental-retardation}~~



an intellectual disability or person with a related condition in a facility operated by the Division.

3. When a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition is committed to a division facility by court order, the committing court must be given 10 days' notice before the discharge of that person.

Sec. 34. NRS 435.081 is hereby amended to read as follows:

435.081 1. The Administrator or the Administrator's designee may receive a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition of this State for services in a facility operated by the Division if:

(a) The person is a person with ~~{mental-retardation}~~ *an intellectual disability* as defined in NRS 433.174 or is a person with a related condition and is in need of institutional training and treatment;

(b) Space is available which is designed and equipped to provide appropriate care for the person;

(c) The facility has or can provide an appropriate program of training and treatment for the person; and

(d) There is written evidence that no less restrictive alternative is available in the person's community.

2. A person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition may be accepted at a division facility for emergency evaluation when the evaluation is requested by a court. A person must not be retained pursuant to this subsection for more than 10 working days.

3. A court may order that a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition be admitted to a division facility if it finds that admission is necessary because of the death or sudden disability of the parent or guardian of the person. The person must not be retained pursuant to this subsection for more than 45 days. Before the expiration of the 45-day period, the Division shall report to the court its recommendations for placement or treatment of the person. If less restrictive alternatives are not available, the person may be admitted to the facility using the procedures for voluntary or involuntary admission, as appropriate.

4. A child may be received, cared for and examined at a division facility for ~~{the mentally-retarded}~~ *persons with intellectual disabilities* for not more than 10 working days without admission, if the examination is ordered by a court having jurisdiction of the minor in accordance with the provisions of NRS 62E.280 and subsection 1 of NRS 432B.560. At the end of the 10 days, the



Administrator or the Administrator's designee shall report the result of the examination to the court and shall detain the child until the further order of the court, but not to exceed 7 days after the Administrator's report.

5. The parent or guardian of a person believed to be a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition may apply to the administrative officer of a division facility to have the person evaluated by personnel of the Division who are experienced in the diagnosis of ~~{mental-retardation}~~ *intellectual disabilities* and related conditions. The administrative officer may accept the person for evaluation without admission.

6. If, after the completion of an examination or evaluation pursuant to subsection 4 or 5, the administrative officer finds that the person meets the criteria set forth in subsection 1, the person may be admitted to the facility using the procedures for voluntary or involuntary admission, as appropriate.

7. If, at any time, the parent or guardian of a person admitted to a division facility on a voluntary basis, or the person himself or herself if the person has attained the age of 18 years, requests in writing that the person be discharged, the administrative officer shall discharge the person. If the administrative officer finds that discharge from the facility is not in the person's best interests, the administrative officer may initiate proceedings for involuntary admission, but the person must be discharged pending those proceedings.

Sec. 35. NRS 435.085 is hereby amended to read as follows:

435.085 The administrative officer of a division facility may authorize the transfer of a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition to a general hospital for necessary diagnostic, medical or surgical services not available within the Division. All expenses incurred under this section must be paid as follows:

1. In the case of a person with ~~{mental-retardation}~~ *an intellectual disability* who is judicially committed or a person with a related condition who is judicially committed, the expenses must be paid by the person's parents or guardian to the extent of their reasonable financial ability as determined by the Administrator, and the remainder, if any, is a charge upon the county of the last known residence of the person with ~~{mental-retardation}~~ *an intellectual disability* or the person with a related condition;

2. In the case of a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition admitted



to a division facility pursuant to NRS 435.010, 435.020 and 435.030, the expenses are a charge upon the county from which a certificate was issued pursuant to subsection 2 of NRS 435.030; and

3. In the case of a person with ~~mental-retardation~~ *an intellectual disability* or a person with a related condition admitted to a division facility upon voluntary application as provided in NRS 435.081, the expenses must be paid by the parents or guardian to the extent of their reasonable financial ability as determined by the Administrator, and for the remainder, if any, the Administrator shall explore all reasonable alternative sources of payment.

Sec. 36. NRS 435.090 is hereby amended to read as follows:

435.090 1. When any child with ~~mental-retardation~~ *an intellectual disability* or a child with a related condition is committed to a division facility by a court of competent jurisdiction, the court shall examine the parent, parents or guardian of the child regarding the ability of the parent, parents or guardian or the estate of the child to contribute to the care, support and maintenance of the child while residing in the facility.

2. If the court determines that the parent, parents or guardian of the child is able to contribute, it shall enter an order prescribing the amount to be contributed.

3. If the court determines that the estate of the child is able to contribute, it shall enter an order requiring that a guardian of the estate of the child be appointed, if there is none, and that the guardian of the estate contribute the amount prescribed by the court from the estate.

4. If the parent, parents or guardian fail or refuse to comply with the order of the court, the Division is entitled to recover from the parent, parents or guardian, by appropriate legal action, all sums due together with interest.

Sec. 37. NRS 435.100 is hereby amended to read as follows:

435.100 1. When any person with ~~mental-retardation~~ *an intellectual disability* or a person with a related condition is transferred from one care facility operated by the Division to another care facility operated by the Division, the parent, parents or guardian shall continue to contribute the amount for the care, support and maintenance of the person as may have previously been ordered by the court of competent jurisdiction committing the person.

2. If no such order was entered by the committing court, the Division may petition the court for an order requiring the parent, parents or guardian to contribute.



3. Any order for contribution entered under the provisions of subsection 2 must be entered in the same manner and has the same effect as an order for contribution entered under the provisions of NRS 435.090.

Sec. 38. NRS 435.110 is hereby amended to read as follows:

435.110 1. When any child with ~~{mental-retardation}~~ *an intellectual disability* or a child with a related condition is admitted to a facility operated by the Division at the request of a parent, parents or guardian, the parent, parents or guardian shall enter into an agreement with the Division providing for the contribution of an amount for the care, support and maintenance of the child as determined by the Division to be reasonable. In determining the amount, the Division shall give consideration to the ability of the parent, parents or guardian to make such a contribution, and may excuse the making of any contribution.

2. If the parent, parents or guardian fail or refuse to perform under the terms of the agreement, the Division is entitled to recover from the parent, parents or guardian, by appropriate legal action, all sums due together with interest.

3. If the Division determines that the parent, parents or guardian do not have the ability to contribute an amount sufficient to pay for the care, support and maintenance of the child, but that the estate of the child is able to contribute, the Division may make application to a court of competent jurisdiction for the appointment of a guardian of the estate of the child, if there is none, and for an order requiring the guardian to contribute an amount as determined by the court.

Sec. 39. NRS 435.115 is hereby amended to read as follows:

435.115 The Administrator shall establish a fee schedule, in consultation with the State Association for Retarded Citizens and subject to the approval of the Board and the Director of the Department, for services rendered to persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions by the Division.

Sec. 40. NRS 435.120 is hereby amended to read as follows:

435.120 Any money collected by the Division under NRS 435.060 to 435.110, inclusive, must be deposited in the State Treasury, accounted for separately by the Division and must be expended for the augmentation of the ~~{mental-retardation}~~ *intellectual disability* residential placement function, in accordance with the allotment, transfer, work program and budget provisions of NRS 353.150 to 353.245, inclusive.



Sec. 41. NRS 435.121 is hereby amended to read as follows:

435.121 1. There are two types of admissions of persons with ~~{mental-retardation}~~ *intellectual disabilities* or persons with related conditions to ~~{a-mental-retardation}~~ *an intellectual disability* center:

(a) Voluntary admission.

(b) Involuntary admission.

2. An application for admission of a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition to ~~{a-mental-retardation}~~ *an intellectual disability* center must be made on a form approved by the Division and the Attorney General. The clerk of each district court in the State shall make the forms available to any person upon request.

Sec. 42. NRS 435.122 is hereby amended to read as follows:

435.122 1. Any person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition may apply to any ~~{mental-retardation}~~ *intellectual disability* center for admission as a voluntary consumer. The person's parent or guardian or another responsible person may submit the application on his or her behalf.

2. If the person or a responsible party on behalf of the person objects to voluntary admission, the procedure for involuntary admission may be followed.

Sec. 43. NRS 435.123 is hereby amended to read as follows:

435.123 Whenever a person is alleged to be a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition and is alleged to be a clear and present danger to himself or herself or others, the person's parent or guardian or another responsible person may initiate proceedings for his or her involuntary admission to ~~{a-mental-retardation}~~ *an intellectual disability* center by petitioning the district court of the county where the person resides. The petition must be accompanied by a certificate signed by a physician or licensed psychologist experienced in the diagnosis of ~~{mental-retardation}~~ *intellectual disabilities* and related conditions stating that he or she has examined the person within the preceding 30 days and has concluded that the person is a person with ~~{mental-retardation}~~ *an intellectual disability* or is a person with a related condition, has demonstrated that the person is a clear and present danger to himself or herself or to others and is in need of institutional training and treatment.



Sec. 44. NRS 435.124 is hereby amended to read as follows:

435.124 Immediately after receiving the petition, the clerk of the district court shall transmit the petition to the district judge, who shall:

1. Determine whether appropriate space and programs are available for the person at the ~~{mental-retardation}~~ *intellectual disability* center to which it is proposed that the person be admitted; and

2. If appropriate space and programs are available, set a time and place for a hearing on the petition.

↳ The hearing must be held within 7 calendar days after the date when the petition was filed. The clerk of the court shall give notice of the hearing to the person who is the subject of the petition, the person's attorney, if known, the petitioner and the administrative officer of the ~~{mental-retardation}~~ *intellectual disability* center to which it is proposed that the person be admitted.

Sec. 45. NRS 435.125 is hereby amended to read as follows:

435.125 1. After the petition is filed, the court may cause a physician or licensed psychologist promptly to examine the person who is the subject of the petition or request an evaluation from the ~~{mental-retardation}~~ *intellectual disability* center to which it is proposed the person be admitted. Any physician or licensed psychologist requested by the court to conduct such an examination must be experienced in the diagnosis of ~~{mental-retardation}~~ *intellectual disabilities* and related conditions. The examination or evaluation must indicate whether the person is or is not a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition and whether the person is or is not in need of institutional training and treatment.

2. The court may allow the person alleged to be a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition to remain at his or her place of residence pending any ordered examination and to return upon completion of the examination. One or more of the person's relatives or friends may accompany the person to the place of examination.

Sec. 46. NRS 435.126 is hereby amended to read as follows:

435.126 1. The person alleged to be a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition, or any relative or friend acting on the person's behalf, is entitled to retain counsel to represent him or her in any proceeding before the district court relating to his or her involuntary admission to ~~{a mental-retardation}~~ *an intellectual disability* center.



2. If counsel has not been retained, the court, before proceeding, shall advise the person and the person's guardian, or closest living relative if such a relative can be located, of the person's right to have counsel.

3. If the person fails or refuses to secure counsel, the court shall appoint counsel to represent the person. If the person is indigent, the counsel appointed may be the public defender.

4. Any counsel appointed by the court is entitled to fair and reasonable compensation for his or her services. The compensation must be charged against the property of the person for whom the counsel was appointed. If the person is indigent, the compensation must be charged against the county in which the person alleged to be a person with ~~mental retardation~~ *an intellectual disability* or a person with a related condition last resided.

Sec. 47. NRS 435.127 is hereby amended to read as follows:

435.127 In proceedings for involuntary admission of a person to ~~a mental retardation~~ *an intellectual disability* center:

1. The court shall hear and consider all relevant evidence, including the certificate, signed by a physician or licensed psychologist, which accompanied the petition and the testimony of persons who conducted examinations or evaluations ordered by the court after the petition was filed.

2. The person must be present and has the right to testify, unless the physician or licensed psychologist who signed the certificate, or who examined the person as ordered by the court, is present and testifies that the person is so severely disabled that he or she is unable to be present.

3. The person may obtain independent evaluation and expert opinion at his or her own expense, and may summon other witnesses.

Sec. 48. NRS 435.128 is hereby amended to read as follows:

435.128 1. Upon completion of the proceedings for involuntary admission of a person to ~~a mental retardation~~ *an intellectual disability* center, if the court finds:

(a) That the person is a person with ~~mental retardation~~ *an intellectual disability* or a person with a related condition, has demonstrated that the person is a clear and present danger to himself or herself or others and is in need of institutional training and treatment;

(b) That appropriate space and programs are available at the ~~mental retardation~~ *intellectual disability* center to which it is proposed that the person be admitted; and



(c) That there is no less restrictive alternative to admission to ~~fa mental retardation~~ *an intellectual disability* center which would be consistent with the best interests of the person,
→ the court shall by written order certify that the person is eligible for involuntary admission to ~~fa mental retardation~~ *an intellectual disability* center.

2. A certificate of eligibility for involuntary admission expires 12 months after the date of issuance if the consumer has not been discharged earlier by the procedure provided in NRS 435.129. At the end of the 12-month period, the administrative officer of the ~~fa mental retardation~~ *intellectual disability* center may petition the court to renew the certificate for an additional period of not more than 12 months. Each petition for renewal must set forth the specific reasons why further treatment is required. A certificate may be renewed more than once.

Sec. 49. NRS 435.129 is hereby amended to read as follows:

435.129 1. If the administrative officer of ~~fa mental retardation~~ *an intellectual disability* center finds that a consumer is no longer in need of the services offered at the center, the administrative officer shall discharge that consumer.

2. A written notice of the discharge must be given to the consumer and the consumer's representatives at least 10 days before the discharge.

3. If the consumer was admitted involuntarily, the Administrator shall, at least 10 days before the discharge, notify the district court which issued the certificate of eligibility for the person's admission.

Sec. 50. NRS 435.130 is hereby amended to read as follows:

435.130 The intent of the Legislature in the enactment of NRS 435.130 to 435.310, inclusive, is to aid persons with ~~fa mental retardation~~ *intellectual disabilities* and persons with related conditions who are not served by existing programs in receiving high quality care and training in an effort to help them become useful citizens.

Sec. 51. NRS 435.176 is hereby amended to read as follows:

435.176 "Jobs and day training services" means individualized services for day habilitation, prevocational, employment and supported employment:

1. Which are provided:

(a) For compensation;

(b) In a division facility or in the community; and



(c) To a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related ~~{conditions}~~ *condition* who is served by the Division; and

2. Which are designed to assist the person in:

(a) Learning or maintaining skills;

(b) Succeeding in paid or unpaid employment;

(c) Increasing self-sufficiency, including, without limitation, training and habilitation services; and

(d) Contributing to the person's community.

Sec. 52. NRS 435.310 is hereby amended to read as follows:

435.310 A provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, may enter into contracts with authorized county and school officials and public and private agencies to give care and training to persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions who would also qualify for care or training programs offered by the public schools or by county welfare programs.

Sec. 53. NRS 435.3315 is hereby amended to read as follows:

435.3315 "Supported living arrangement services" means flexible, individualized services provided in the home, for compensation, to a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition who is served by the Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services.

Sec. 54. NRS 435.340 is hereby amended to read as follows:

435.340 Neither voluntary admission nor judicial commitment nor any other procedure provided in this chapter may be construed as depriving a person with ~~{mental-retardation}~~ *an intellectual disability* or a person with a related condition of the person's full civil and legal rights by any method other than a separate judicial proceeding resulting in a determination of incompetency wherein the civil and legal rights forfeited and the legal disabilities imposed are specifically stated.

Sec. 55. NRS 435.350 is hereby amended to read as follows:

435.350 1. Each person with ~~{mental-retardation}~~ *an intellectual disability* and each person with a related condition admitted to a division facility is entitled to all rights enumerated in NRS 433.482, 433.484 and 433.545 to 433.551, inclusive.

2. The Administrator shall designate a person or persons to be responsible for establishment of regulations relating to denial of rights of persons with ~~{mental-retardation}~~ *intellectual disabilities*



and persons with related conditions. The person designated shall file the regulations with the Administrator.

3. Consumers' rights specified in NRS 433.482 and 433.484 may be denied only for cause. Any denial of such rights must be entered in the consumer's treatment record, and notice of the denial must be forwarded to the Administrator's designee or designees as provided in subsection 2. Failure to report denial of rights by an employee may be grounds for dismissal.

4. Upon receipt of notice of a denial of rights as provided in subsection 3, the Administrator's designee or designees shall cause a full report to be prepared which sets forth in detail the factual circumstances surrounding the denial. A copy of the report must be sent to the Administrator and the Commission.

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

Sec. 56. NRS 435.360 is hereby amended to read as follows:

435.360 1. The relatives of a consumer with ~~{mental retardation}~~ *an intellectual disability* or a consumer with a related condition who is 18 years of age or older are not responsible for the costs of the consumer's care and treatment within a division facility.

2. The consumer or the consumer's estate, when able, may be required to contribute a reasonable amount toward the costs of the consumer's care and treatment. Otherwise, the full costs of the services must be borne by the State.

Sec. 57. NRS 435.365 is hereby amended to read as follows:

435.365 1. To the extent that money is available for that purpose, whenever a person with ~~{mental retardation}~~ *an intellectual disability* or a related condition is cared for by a parent or other relative with whom the person lives, that parent or relative is eligible to receive assistance on a monthly basis from the Division for each such person who lives and is cared for in the home if the Division finds that:

(a) The person with ~~{mental retardation}~~ *an intellectual disability* or a related condition has been diagnosed as having *a* profound or severe ~~{mental retardation}~~ *intellectual disability* or, if he or she is under 6 years of age, has developmental delays that require support that is equivalent to the support required by a person with *a* profound or severe ~~{mental retardation}~~ *intellectual disability* or a related condition;

(b) The person with ~~{mental retardation}~~ *an intellectual disability* or a related condition is receiving adequate care; and



(c) The person with ~~{mental-retardation}~~ *an intellectual disability* or a related condition and the parent or other relative with whom the person lives is not reasonably able to pay for his or her care and support.

➡ The amount of the assistance must be established by legislative appropriation for each fiscal year.

2. The Division shall adopt regulations:

(a) Which establish a procedure of application for assistance;

(b) For determining the eligibility of an applicant pursuant to subsection 1; and

(c) For determining the amount of assistance to be provided to an eligible applicant.

3. The Division shall establish a waiting list for applicants who are eligible for assistance but who are denied assistance because the legislative appropriation is insufficient to provide assistance for all eligible applicants.

4. The decision of the Division regarding eligibility for assistance or the amount of assistance to be provided is a final administrative decision.

Sec. 58. NRS 435.370 is hereby amended to read as follows:

435.370 The Division may make such rules and regulations and enter such agreements with public and private agencies as are deemed necessary to implement residential placement-foster family care programs for persons with ~~{mental-retardation}~~ *intellectual disabilities* and persons with related conditions.

Sec. 59. NRS 435.380 is hereby amended to read as follows:

435.380 1. All gifts or grants of money which the Division is authorized to accept must be spent in accordance with the provisions of the gift or grant. In the absence of those provisions, the Division must spend the money for the purpose approved by the Interim Finance Committee.

2. All such money must be deposited in the State Treasury to the credit of the ~~{Mental-Retardation}~~ *Intellectual Disability* Gift Account in the Department of Health and Human Services' Gift Fund.

3. All claims must be approved by the Administrator before they are paid.

Sec. 60. NRS 435.390 is hereby amended to read as follows:

435.390 1. The administrative officer of any division facility where persons with ~~{mental-retardation}~~ *intellectual disabilities* or persons with related conditions reside may establish a canteen operated for the benefit of consumers and employees of the facility.



The administrative officer shall keep a record of transactions in the operation of the canteen.

2. Each canteen must be self-supporting. No money provided by the State may be used for its operation.

3. The respective administrative officers shall deposit the money used for the operation of the canteen in one or more banks or credit unions of reputable standing, except that an appropriate sum may be maintained as petty cash at each canteen.

Sec. 61. NRS 436.110 is hereby amended to read as follows:

436.110 The Legislature declares that the purposes of this chapter are:

1. To encourage and provide financial assistance to counties in the establishment and development of mental health services, including services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, through locally controlled community mental health programs.

2. To promote the improvement and, if necessary, the expansion of already existing services which help to conserve the mental health of the people of Nevada. It is the intent of this chapter that services to individuals be rendered only upon voluntary application.

Sec. 62. NRS 436.150 is hereby amended to read as follows:

436.150 The county board shall:

1. Review and evaluate communities' needs, services, facilities and special problems in the fields of mental health and ~~mental retardation~~ *intellectual disabilities* and related conditions.

2. Advise the governing body as to programs of community mental health services and facilities and services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, and, when requested by the governing body, make recommendation regarding the appointment of a county director.

3. After adoption of a program, continue to act in an advisory capacity to the county director.

Sec. 63. NRS 436.170 is hereby amended to read as follows:

436.170 The county director shall:

1. Serve as chief executive officer of the county program and be accountable to the county board.

2. Exercise administrative responsibility and authority over the county program and facilities furnished, operated or supported in connection therewith, and over services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, except as administrative responsibility is otherwise provided for in this title.



3. Recommend to the governing body, after consultation with the county board, the providing of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable to accomplish the purposes of this chapter.

4. Submit an annual report to the governing body reporting all activities of the program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

5. Carry on such studies as may be appropriate for the discharge of his or her duties, including the control and prevention of psychiatric disorders and the treatment of ~~mental retardation~~ *intellectual disabilities* and related conditions.

Sec. 64. NRS 436.230 is hereby amended to read as follows:

436.230 Expenditures made by counties for county programs, including services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, pursuant to this chapter, must be reimbursed by the State pursuant to NRS 436.240 to 436.320, inclusive.

Sec. 65. NRS 436.240 is hereby amended to read as follows:

436.240 1. A service operated within a county program must be directed to at least one of the following mental health areas:

(a) Mental illness;

(b) ~~Mental retardation~~ *Intellectual disabilities* and related conditions;

(c) Organic brain and other neurological impairment;

(d) Alcoholism; and

(e) Drug abuse.

2. A service is any of the following:

(a) Diagnostic service;

(b) Emergency service;

(c) Inpatient service;

(d) Outpatient or partial hospitalization service;

(e) Residential, sheltered or protective care service;

(f) Habilitation or rehabilitation service;

(g) Prevention, consultation, collaboration, education or information service; and

(h) Any other service approved by the Division.

Sec. 66. NRS 436.270 is hereby amended to read as follows:

436.270 1. Money provided by direct legislative appropriation for purposes of reimbursement as provided by NRS 436.230 to 436.260, inclusive, must be allotted to the governing body as follows:



(a) The State shall pay to each county a sum equal to 90 percent of the total proposed expenditures as reflected by the plan of proposed expenditures submitted pursuant to NRS 436.250 if the county has complied with the provisions of paragraph (b).

(b) Before payment under this subsection, the governing body of a county must submit evidence to the Administrator that 10 percent of the total proposed expenditures have been raised and budgeted by the county for the establishment or maintenance of a county program.

2. All state and federal moneys appropriated or authorized for the promotion of mental health or for services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions in the State of Nevada must be disbursed through the Division in accordance with the provisions of this chapter and rules and regulations adopted in accordance therewith.

Sec. 67. NRS 436.310 is hereby amended to read as follows:

436.310 Fees for mental health services, including services to persons with ~~mental retardation~~ *intellectual disabilities* and persons with related conditions, rendered pursuant to an approved county plan must be charged in accordance with ability to pay, but not in excess of actual cost.

Sec. 68. The preliminary chapter of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided by specific statute or required by the context, “intellectual disability” and any variation of that term:

1. Means a condition previously referred to as “mental retardation,” “mentally retarded” and any variation of that term;

2. Has the same meaning as a condition previously referred to as “mental retardation,” “mentally retarded” and any variation of that term with respect to rights and responsibilities of persons with such a condition and eligibility or qualification of persons with such a condition for any program, benefit or otherwise; and

3. Must be interpreted to have the same meaning for any judicial interpretation of any provision which previously referred to “mental retardation,” “mentally retarded” and any variation of that term.

Secs. 69 and 70. (Deleted by amendment.)

Sec. 71. NRS 41.1395 is hereby amended to read as follows:

41.1395 1. Except as otherwise provided in subsection 3, if an older person or a vulnerable person suffers a personal injury or death that is caused by abuse or neglect or suffers a loss of money or property caused by exploitation, the person who caused the injury,



death or loss is liable to the older person or vulnerable person for two times the actual damages incurred by the older person or vulnerable person.

2. If it is established by a preponderance of the evidence that a person who is liable for damages pursuant to this section acted with recklessness, oppression, fraud or malice, the court shall order the person to pay the attorney's fees and costs of the person who initiated the lawsuit.

3. The provisions of this section do not apply to a person who caused injury, death or loss to a vulnerable person if the person did not know or have reason to know that the harmed person was a vulnerable person.

4. For the purposes of this section:

(a) "Abuse" means willful and unjustified:

(1) Infliction of pain, injury or mental anguish; or

(2) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

(b) "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of that person's money, assets or property; or

(2) Convert money, assets or property of the older person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of that person's money, assets or property.

➡ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(c) "Neglect" means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person, or who has voluntarily assumed responsibility for such a person's care, to provide food, shelter, clothing or services within the scope of the person's responsibility or obligation, which are necessary to maintain the physical or mental health of the older person or vulnerable person. For the purposes of this paragraph, a person voluntarily assumes responsibility to provide care for an older or vulnerable person only



to the extent that the person has expressly acknowledged the person's responsibility to provide such care.

(d) "Older person" means a person who is 60 years of age or older.

(e) "Vulnerable person" means a person who:

(1) Has a physical or mental impairment that substantially limits one or more of the major life activities of the person; and

(2) Has a medical or psychological record of the impairment or is otherwise regarded as having the impairment.

→ The term includes, without limitation, a person who ~~is mentally retarded,~~ *has an intellectual disability*, a person who has a severe learning disability, a person who suffers from a severe mental or emotional illness or a person who suffers from a terminal or catastrophic illness or injury.

Sec. 72. (Deleted by amendment.)

Sec. 73. NRS 62E.160 is hereby amended to read as follows:

62E.160 1. If it has been admitted or determined that a child is in need of supervision or in need of commitment to an institution for persons with ~~mental retardation~~ *intellectual disabilities* or mental illness and the child has been or will be placed outside the home of the child by court order:

(a) The juvenile court shall direct a probation officer or an authorized agency to prepare for the juvenile court a study and a written report concerning the child, the family of the child, the environment of the child and other matters relevant to the need for treatment or disposition of the case; and

(b) The agency which is charged with the care and custody of the child or the agency which has the responsibility for supervising the placement of the child shall file with the juvenile court a plan which includes:

(1) The social history of the child and the family of the child;

(2) The wishes of the child relating to the placement of the child;

(3) A statement of the conditions which require intervention by the juvenile court and whether the removal of the child from the home of the child was a result of a judicial determination that the child's continuation in the home would be contrary to the child's welfare;

(4) A statement of the harm which the child is likely to suffer as a result of the removal;

(5) A discussion of the efforts made by the agency to avoid removing the child from the home of the child before the agency placed the child in foster care;



(6) The special programs available to the parent or guardian of the child which might prevent further harm to the child and the reason that each program is likely to be useful, and the overall plan of the agency to ensure that the services are available;

(7) A description of the type of home or institution in which the child could be placed, a plan for ensuring that the child would receive proper care and a description of the needs of the child; and

(8) A description of the efforts made by the agency to facilitate the return of the child to the home of the child or permanent placement of the child.

2. If there are indications that a child may be a person with ~~mental retardation~~ *an intellectual disability* or mental illness, the juvenile court may order the child to be examined at a suitable place by a physician, psychiatrist or psychologist before a hearing on the merits of the petition. The examinations made before a hearing or as part of the study provided for in subsection 1 must be conducted without admission to a hospital unless the juvenile court finds that placement in a hospital or other appropriate facility is necessary.

3. After a hearing, the juvenile court may order a parent or guardian of the child to be examined by a physician, psychiatrist or psychologist if:

(a) The ability of the parent or guardian to care for or supervise the child is at issue before the juvenile court; and

(b) The parent or guardian consents to the examination.

Sec. 74. (Deleted by amendment.)

Sec. 75. NRS 171.083 is hereby amended to read as follows:

171.083 1. If, at any time during the period of limitation prescribed in NRS 171.085 and 171.095, a victim of a sexual assault or a person authorized to act on behalf of a victim of a sexual assault files with a law enforcement officer a written report concerning the sexual assault, the period of limitation prescribed in NRS 171.085 and 171.095 is removed and there is no limitation of the time within which a prosecution for the sexual assault must be commenced.

2. If a written report is filed with a law enforcement officer pursuant to subsection 1, the law enforcement officer shall provide a copy of the written report to the victim or the person authorized to act on behalf of the victim.

3. If a victim of a sexual assault is under a disability during any part of the period of limitation prescribed in NRS 171.085 and 171.095 and a written report concerning the sexual assault is not otherwise filed pursuant to subsection 1, the period during which the victim is under the disability must be excluded from any calculation of the period of limitation prescribed in NRS 171.085 and 171.095.



4. For the purposes of this section, a victim of a sexual assault is under a disability if the victim is insane, ~~mentally retarded;~~ *intellectually disabled*, mentally incompetent or in a medically comatose or vegetative state.

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

- (a) A prosecuting attorney;
- (b) A sheriff of a county or the sheriff's deputy;
- (c) An officer of a metropolitan police department or a police department of an incorporated city; or
- (d) Any other person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

Sec. 76. NRS 174.098 is hereby amended to read as follows:

174.098 1. A defendant who is charged with murder of the first degree in a case in which the death penalty is sought may, not less than 10 days before the date set for trial, file a motion to declare that the defendant is ~~mentally retarded;~~ *intellectually disabled*.

2. If a defendant files a motion pursuant to this section, the court must:

- (a) Stay the proceedings pending a decision on the issue of ~~mental retardation;~~ *intellectual disability*; and
- (b) Hold a hearing within a reasonable time before the trial to determine whether the defendant is ~~mentally retarded;~~ *intellectually disabled*.

3. The court shall order the defendant to:

- (a) Provide evidence which demonstrates that the defendant is ~~mentally retarded;~~ *intellectually disabled* not less than 30 days before the date set for a hearing conducted pursuant to subsection 2; and
- (b) Undergo an examination by an expert selected by the prosecution on the issue of whether the defendant is ~~mentally retarded;~~ *intellectually disabled* at least 15 days before the date set for a hearing pursuant to subsection 2.

4. For the purpose of the hearing conducted pursuant to subsection 2, there is no privilege for any information or evidence provided to the prosecution or obtained by the prosecution pursuant to subsection 3.

5. At a hearing conducted pursuant to subsection 2:

- (a) The court must allow the defendant and the prosecution to present evidence and conduct a cross-examination of any witness concerning whether the defendant is ~~mentally retarded;~~ *intellectually disabled*; and



(b) The defendant has the burden of proving by a preponderance of the evidence that the defendant is ~~mentally retarded~~ *intellectually disabled*.

6. If the court determines based on the evidence presented at a hearing conducted pursuant to subsection 2 that the defendant is ~~mentally retarded~~ *intellectually disabled*, the court must make such a finding in the record and strike the notice of intent to seek the death penalty. Such a finding may be appealed to the Supreme Court pursuant to NRS 177.015.

7. For the purposes of this section, ~~“mentally retarded”~~ *“intellectually disabled”* means significant subaverage general intellectual functioning which exists concurrently with deficits in adaptive behavior and manifested during the developmental period.

Sec. 77. 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.

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~~ *intellectually disabled* 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, the defendant's 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 the 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~~ *intellectually disabled* 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. 78. NRS 175.554 is hereby amended to read as follows:

175.554 In cases in which the death penalty is sought:

1. The court shall instruct the jury at the end of the penalty hearing, and shall include in its instructions the aggravating circumstances alleged by the prosecution upon which evidence has been presented during the trial or at the hearing. The court shall also instruct the jury as to the mitigating circumstances alleged by the defense upon which evidence has been presented during the trial or at the hearing.

2. The jury shall determine:

(a) Whether an aggravating circumstance or circumstances are found to exist;

(b) Whether a mitigating circumstance or circumstances are found to exist; and

(c) Based upon these findings, whether the defendant should be sentenced to imprisonment for a definite term of 50 years, life imprisonment with the possibility of parole, life imprisonment without the possibility of parole or death.

3. The jury may impose a sentence of death only if it finds at least one aggravating circumstance and further finds that there are no mitigating circumstances sufficient to outweigh the aggravating circumstance or circumstances found.

4. If a jury imposes a sentence of death, the jury shall render a written verdict signed by the foreman. The verdict must designate



the aggravating circumstance or circumstances which were found beyond a reasonable doubt, and must state that there are no mitigating circumstances sufficient to outweigh the aggravating circumstance or circumstances found.

5. If a sentence of death is imposed and a prior determination regarding ~~mental retardation~~ *intellectual disability* has not been made pursuant to NRS 174.098, the defendant may file a motion to set aside the penalty on the grounds that the defendant is ~~mentally retarded~~ *intellectually disabled*. If such a motion is filed, the court shall conduct a hearing on that issue in the manner set forth in NRS 174.098. If the court determines pursuant to such a hearing that the defendant is ~~mentally retarded~~ *intellectually disabled*, it shall set aside the sentence of death and order a new penalty hearing to be conducted. Either party may appeal such a determination to the Supreme Court pursuant to NRS 177.015.

Sec. 79. NRS 176.415 is hereby amended to read as follows:

176.415 The execution of a judgment of death must be stayed only:

1. By the State Board of Pardons Commissioners as authorized in Section 14 of Article 5 of the Constitution of the State of Nevada;

2. By the Governor if the Governor grants a reprieve pursuant to Section 13 of Article 5 of the Constitution of the State of Nevada;

3. When a direct appeal from the judgment of conviction and sentence is taken to the Supreme Court;

4. By a judge of the district court of the county in which the state prison is situated, for the purpose of an investigation of sanity or pregnancy as provided in NRS 176.425 to 176.485, inclusive;

5. By a judge of the district court in which a motion is filed pursuant to subsection 5 of NRS 175.554, for the purpose of determining whether the defendant is ~~mentally retarded~~ *intellectually disabled*; or

6. Pursuant to the provisions of NRS 176.0919 or 176.486 to 176.492, inclusive.

Sec. 80. NRS 176A.047 is hereby amended to read as follows:

176A.047 ~~“Mental retardation”~~ *“Intellectual disability”* has the meaning ascribed to it in NRS 433.174.

Sec. 81. NRS 176A.250 is hereby amended to read as follows:

176A.250 A court may establish an appropriate program for the treatment of mental illness or ~~mental retardation~~ *intellectual disabilities* to which it may assign a defendant pursuant to NRS 176A.260. The assignment must include the terms and conditions for successful completion of the program and provide for progress



reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Sec. 82. 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;~~ *intellectually disabled*; and

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

Sec. 83. 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;~~ *intellectually disabled* 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. 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 the defendant for any purpose.

Sec. 84. 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~~ *intellectually disabled* 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. 85. NRS 177.055 is hereby amended to read as follows:

177.055 1. When upon a plea of not guilty or not guilty by reason of insanity a judgment of death is entered, an appeal is deemed automatically taken by the defendant without any action by the defendant or the defendant's counsel, unless the defendant or the defendant's counsel affirmatively waives the appeal within 30 days after the rendition of the judgment.

2. Whether or not the defendant or the defendant's counsel affirmatively waives the appeal, the sentence must be reviewed on the record by the Supreme Court, which shall consider, in a single proceeding, if an appeal is taken:

(a) Any errors enumerated by way of appeal;

(b) If a court determined that the defendant is not ~~mentally retarded~~ *intellectually disabled* during a hearing held pursuant to NRS 174.098, whether that determination was correct;

(c) Whether the evidence supports the finding of an aggravating circumstance or circumstances;

(d) Whether the sentence of death was imposed under the influence of passion, prejudice or any arbitrary factor; and

(e) Whether the sentence of death is excessive, considering both the crime and the defendant.

3. The Supreme Court, when reviewing a death sentence, may:

(a) Affirm the sentence of death;

(b) Set the sentence aside and remand the case for a new penalty hearing before a newly impaneled jury; or

(c) Set aside the sentence of death and impose the sentence of imprisonment for life without possibility of parole.



Sec. 86. NRS 178.3985 is hereby amended to read as follows:

178.3985 “Mental disorder” means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the mental or emotional functioning of the person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another and includes, without limitation, ~~mental-retardation~~ *intellectual disabilities* and related conditions.

Secs. 87 and 88. (Deleted by amendment.)

Sec. 89. NRS 200.030 is hereby amended to read as follows:

200.030 1. Murder of the first degree is murder which is:

(a) Perpetrated by means of poison, lying in wait or torture, or by any other kind of willful, deliberate and premeditated killing;

(b) Committed in the perpetration or attempted perpetration of sexual assault, kidnapping, arson, robbery, burglary, invasion of the home, sexual abuse of a child, sexual molestation of a child under the age of 14 years, child abuse or abuse of an older person or vulnerable person pursuant to NRS 200.5099;

(c) Committed to avoid or prevent the lawful arrest of any person by a peace officer or to effect the escape of any person from legal custody;

(d) Committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person; or

(e) Committed in the perpetration or attempted perpetration of an act of terrorism.

2. Murder of the second degree is all other kinds of murder.

3. The jury before whom any person indicted for murder is tried shall, if they find the person guilty thereof, designate by their verdict whether the person is guilty of murder of the first or second degree.

4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished:

(a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to NRS 174.098 that the defendant is a person with ~~mental-retardation~~ *an*



intellectual disability and has stricken the notice of intent to seek the death penalty; or

(b) By imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

(3) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

➔ A determination of whether aggravating circumstances exist is not necessary to fix the penalty at imprisonment for life with or without the possibility of parole.

5. A person convicted of murder of the second degree 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.

6. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415;

(b) “Child abuse” means physical injury of a nonaccidental nature to a child under the age of 18 years;

(c) “School bus” has the meaning ascribed to it in NRS 483.160;

(d) “Sexual abuse of a child” means any of the acts described in NRS 432B.100; and

(e) “Sexual molestation” means any willful and lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of the perpetrator or of the child.

Sec. 90. (Deleted by amendment.)

Sec. 91. NRS 207.014 is hereby amended to read as follows:

207.014 1. A person who:

(a) Has been convicted in this State of any felony committed on or after July 1, 1995, of which fraud or intent to defraud is an element; and

(b) Has previously been two times convicted, whether in this State or elsewhere, of any felony of which fraud or intent to defraud is an element before the commission of the felony under paragraph (a),



↪ is a habitually fraudulent felon and shall be punished for a category B felony 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, if the victim of each offense was an older person, a person with a mental disability or a vulnerable person.

2. The prosecuting attorney shall include a count under this section in any information or shall file a notice of habitually fraudulent felon if an indictment is found, if the prior convictions and the alleged offense committed by the accused are felonies of which fraud or intent to defraud is an element and the victim of each offense was:

- (a) An older person;
- (b) A person with a mental disability; or
- (c) A vulnerable person.

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

4. As used in this section:

(a) "Older person" means a person who is:

(1) Sixty-five years of age or older if the crime was committed before October 1, 2003.

(2) Sixty years of age or older if the crime was committed on or after October 1, 2003.

(b) "Person with a mental disability" means a person who has a mental impairment which is medically documented and substantially limits one or more of the person's major life activities. The term includes, but is not limited to, a person who:

(1) Suffers from ~~mental retardation;~~ *an intellectual disability;*

(2) Suffers from a severe mental or emotional illness;

(3) Has a severe learning disability; or

(4) Is experiencing a serious emotional crisis in his or her life as a result of the fact that the person or a member of his or her immediate family has a catastrophic illness.

(c) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 92. (Deleted by amendment.)

Sec. 93. NRS 213.1088 is hereby amended to read as follows:

213.1088 1. The Department of Public Safety in conjunction with the Department of Corrections shall establish a program of orientation that:

(a) Each member of the Board shall attend upon appointment to a first term; and



(b) Each person named by the Board to the list of persons eligible to serve as a case hearing representative pursuant to NRS 213.135 shall attend upon being named to the list. A person named to the list may not serve as a case hearing representative until the person completes the program of orientation.

2. The program of orientation must include a minimum of 40 hours of training. The information presented during the program of orientation must include, but is not limited to:

(a) A historical perspective of parole, including the objectives of and reasons for using parole within the criminal justice system;

(b) The role and function of the Board within the criminal justice system;

(c) The responsibilities of members of the Board and case hearing representatives;

(d) The goals and objectives of the Board;

(e) The programs administered by the Board;

(f) The policies and procedures of the Board; and

(g) The laws and regulations governing parole, including the standards for granting, denying, revoking and continuing parole.

3. The Chair of the Board shall develop a written plan for the continuing education of members of the Board and case hearing representatives. The plan must require that:

(a) Each member of the Board shall attend not less than 16 hours of courses for continuing education during each year of the member's term.

(b) Each case hearing representative shall attend not less than 16 hours of courses for continuing education during each year that the representative is on the list of persons eligible to serve as a case hearing representative.

4. A member of the Board or a case hearing representative may meet the requirement for continuing education by successfully completing courses in any combination of the following subjects:

(a) The role and function of the Board within the criminal justice system;

(b) Changes in the law, including judicial decisions affecting parole;

(c) Developing skills in communicating, making decisions and solving problems;

(d) The interpretation and use of research, data and reports;

(e) Correctional policies and programs, including programs for the treatment of prisoners and parolees;

(f) Alternative punishments for disobedience;

(g) The selection of prisoners for parole;



- (h) The supervision of parolees;
- (i) The designation of and programs for repeating or professional offenders;
- (j) Problems related to gangs;
- (k) The abuse of alcohol and drugs;
- (l) The acquired immune deficiency syndrome;
- (m) Domestic violence; and
- (n) Mental illness and ~~mental-retardation~~ *intellectual disabilities*.

5. The Board shall, within the limits of legislative appropriations, pay the expenses of members of the Board and case hearing representatives attending courses for continuing education.

Sec. 94. NRS 232.361 is hereby amended to read as follows:

232.361 1. There is hereby created in the Department a Commission on Mental Health and Developmental Services consisting of 10 members appointed by the Governor, at least 3 of whom have training or experience in dealing with ~~mental-retardation~~ *intellectual disabilities*.

2. The Governor shall appoint:

(a) A psychiatrist licensed to practice medicine in this State, from a list of three candidates submitted by the Nevada Psychiatric Association;

(b) A psychologist licensed to practice in this State and experienced in clinical practice, from a list of four candidates submitted by the Nevada ~~State~~ Psychological Association, two of whom must be from northern Nevada and two of whom must be from southern Nevada;

(c) A physician, other than a psychiatrist, licensed to practice medicine in this State and who has experience in dealing with ~~mental-retardation~~ *intellectual disabilities*, from a list of three candidates submitted by the Nevada State Medical Association;

(d) A social worker who has a master's degree and has experience in dealing with mental illness or ~~mental-retardation~~ *intellectual disabilities*, or both;

(e) A registered nurse licensed to practice in this State who has experience in dealing with mental illness or ~~mental-retardation~~ *intellectual disabilities*, or both, from a list of three candidates submitted by the Nevada Nurses Association;

(f) A marriage and family therapist licensed to practice in this State, from a list of three candidates submitted by the Nevada Association for Marriage and Family Therapy;

(g) A person who has knowledge and experience in the prevention of alcohol and drug abuse and the treatment and recovery



of alcohol and drug abusers through a program or service provided pursuant to chapter 458 of NRS, from a list of three candidates submitted by the Division of Mental Health and Developmental Services of the Department;

(h) A current or former recipient of mental health services provided by the State or any agency thereof;

(i) A representative of the general public who has a special interest in the field of mental health; and

(j) A representative of the general public who has a special interest in the field of ~~mental retardation;~~ *intellectual disabilities*.

3. The Governor shall appoint the Chair of the Commission from among its members.

4. After the initial terms, each member shall serve a term of 4 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace that member for the remainder of the unexpired term.

Sec. 95. NRS 233H.020 is hereby amended to read as follows:

233H.020 1. The Nevada Commission on Sports, consisting of nine members appointed by the Governor and two nonvoting members selected from the Legislature, is hereby created.

2. The Governor shall appoint to the Commission:

(a) One member who is experienced in promoting physical fitness;

(b) One member who is experienced in promoting sports for persons who are physically disabled or persons with ~~mental retardation;~~ *intellectual disabilities*;

(c) One member who has competed in the Olympic Games;

(d) Three members who are experienced in promoting amateur sports;

(e) One member who represents the gaming industry;

(f) One member who represents the mining industry; and

(g) One member who represents the public utilities and similar entities.

3. The Majority Leader of the Senate and the Speaker of the Assembly shall appoint one member of the Senate and one member of the Assembly, respectively, to serve as nonvoting members of the Commission for terms of 2 years.

4. If a vacancy occurs during the term of a member appointed by the Governor, the Governor shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

5. The Commission shall elect a Chair and a Vice Chair from among its voting members.



6. The Governor may remove a member from the Commission if the member neglects his or her duty or commits malfeasance in office.

Sec. 96. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter and NRS 374.643 for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental ~~handicap~~ *disability* who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

➡ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that



effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Sec. 97. NRS 284.015 is hereby amended to read as follows:

284.015 As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the Administrator of the Division.
2. "Commission" means the Personnel Commission.
3. "Disability," includes, but is not limited to, physical disability, ~~mental retardation~~ *intellectual disability* and mental or emotional disorder.

4. "Division" means the Division of Human Resource Management of the Department of Administration.

5. "Essential functions" has the meaning ascribed to it in 29 C.F.R. § 1630.2.

6. "Public service" means positions providing service for any office, department, board, commission, bureau, agency or institution in the Executive Department of the State Government operating by authority of the Constitution or law, and supported in whole or in part by any public money, whether the money is received from the Government of the United States or any branch or agency thereof, or from private or any other sources.

Sec. 98. (Deleted by amendment.)

Sec. 99. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

- (a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

- (b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized



education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

(e) ~~Mental retardation.~~ *Intellectual disabilities.*

(f) Multiple impairments.

(g) Serious emotional disturbances.

(h) Other health impairments.

(i) Specific learning disabilities.

(j) Autism spectrum disorders.

(k) Traumatic brain injuries.

(l) Developmental delays.

(m) Gifted and talented abilities.

5. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

7. As used in this section, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 100. (Deleted by amendment.)



Sec. 101. NRS 422.29306 is hereby amended to read as follows:

422.29306 1. The Department may, to the extent not prohibited by federal law, petition for the imposition of a lien pursuant to the provisions of NRS 108.850 against real or personal property of a recipient of Medicaid as follows:

(a) The Department may obtain a lien against a recipient's property, both real or personal, before or after the death of the recipient in the amount of assistance paid or to be paid on behalf of the recipient if the court determines that assistance was incorrectly paid for the recipient.

(b) The Department may seek a lien against the real property of a recipient at any age before the death of the recipient in the amount of assistance paid or to be paid for the recipient if the recipient is an inpatient in a nursing facility, intermediate care facility for persons with ~~mental retardation~~ *intellectual disabilities* or other medical institution and the Department determines, after notice and opportunity for a hearing in accordance with applicable regulations, that the recipient cannot reasonably be expected to be discharged and return home.

2. No lien may be placed on a recipient's home pursuant to paragraph (b) of subsection 1 for assistance correctly paid if:

(a) His or her spouse;

(b) His or her child who is under 21 years of age, blind or disabled as determined in accordance with 42 U.S.C. § 1382c; or

(c) His or her brother or sister who is an owner or part owner of the home and who was residing in the home for at least 1 year immediately before the date the recipient was admitted to the medical institution,

↳ is lawfully residing in the home.

3. Upon the death of a recipient, the Department may seek a lien upon the recipient's undivided estate as defined in NRS 422.054.

4. The amount of the lien recovery must be based on the value of the real or personal property at the time of sale of the property.

5. The Director shall release a lien pursuant to this section:

(a) Upon notice by the recipient or the representative of the recipient to the Director that the recipient has been discharged from the medical institution and has returned home;

(b) If the lien was incorrectly determined; or

(c) Upon satisfaction of the claim of the Department.



Sec. 102. NRS 422.376 is hereby amended to read as follows:
422.376 “Facility for intermediate care” has the meaning ascribed to it in NRS 449.0038, but does not include:

1. A facility which meets the requirements of a general or any other special hospital pursuant to chapter 449 of NRS;
2. A facility for intermediate care which limits its care and treatment to those persons who are ~~mentally retarded~~ *intellectually disabled* or who have conditions related to ~~mental retardation~~ *intellectual disabilities*; or
3. A facility for intermediate care that is owned or operated by the State of Nevada or any political subdivision of the State of Nevada.

Sec. 103. NRS 449.0105 is hereby amended to read as follows:

449.0105 “Home for individual residential care” means a home in which a natural person furnishes food, shelter, assistance and limited supervision, for compensation, to not more than two persons with ~~mental retardation~~ *intellectual disabilities* or with *physical* disabilities or who are aged or infirm, unless the persons receiving those services are related within the third degree of consanguinity or affinity to the person providing those services. The term does not include:

1. A halfway house for recovering alcohol and drug abusers; or
2. A home in which supported living arrangement services are provided by a provider of supported living arrangement services during any period in which the provider of supported living arrangement services is engaged in providing supported living arrangement services.

Sec. 104. NRS 449.017 is hereby amended to read as follows:

449.017 1. Except as otherwise provided in subsection 2, “residential facility for groups” means an establishment that furnishes food, shelter, assistance and limited supervision to a person with ~~mental retardation~~ *an intellectual disability* or with a *physical* disability or a person who is aged or infirm. The term includes, without limitation, an assisted living facility.

2. The term does not include:

- (a) An establishment which provides care only during the day;
- (b) A natural person who provides care for no more than two persons in his or her own home;
- (c) A natural person who provides care for one or more persons related to him or her within the third degree of consanguinity or affinity;
- (d) A halfway house for recovering alcohol and drug abusers; or



(e) A facility funded by a division or program of the Department of Health and Human Services.

Sec. 105. NRS 449.187 is hereby amended to read as follows:

449.187 1. Except as otherwise provided in subsection 2, a facility for skilled nursing or facility for intermediate care licensed pursuant to the provisions of NRS 449.030 to 449.240, inclusive, may not be operated except under the supervision of a nursing facility administrator who is at the facility and licensed under the provisions of chapter 654 of NRS.

2. The provisions of subsection 1 do not apply to a facility for intermediate care which limits its care and treatment to those persons with ~~mental-retardation~~ *intellectual disabilities* or conditions related to ~~mental-retardation~~ *intellectual disabilities*.

Sec. 106. NRS 449.260 is hereby amended to read as follows:

449.260 As used in NRS 449.250 to 449.430, inclusive:

1. “Community mental health center” means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of patients with mental illness, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

2. “Construction” includes the construction of new buildings, modernization, expansion, remodeling and alteration of existing buildings, and initial equipment of such buildings, including medical transportation facilities, and includes architects’ fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of the land.

3. “Facility for persons with ~~mental-retardation~~” *intellectual disabilities*” means a facility specially designed for the diagnosis, treatment, education, training or custodial care of persons with ~~mental-retardation~~ *intellectual disabilities*, including facilities for training specialists and sheltered workshops for persons with ~~mental-retardation~~ *intellectual disabilities*, but only if such workshops are part of facilities which provide or will provide comprehensive services for persons with ~~mental-retardation~~ *intellectual disabilities*.

4. “Federal Act” means 42 U.S.C. §§ 291 to 291o-1, inclusive, and 300k to 300t, inclusive, and any other federal law providing for or applicable to the provision of assistance for health facilities.

5. “Federal agency” means the federal department, agency or official designated by law, regulation or delegation of authority to administer the Federal Act.



6. “Health facility” includes a public health center, hospital, facility for hospice care, facility for persons with ~~mental retardation,~~ *intellectual disabilities*, community mental health center, and other facility to provide diagnosis, treatment, care, rehabilitation, training or related services to persons with physical or mental impairments, including diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act, and such other facilities for which federal aid may be authorized under the Federal Act, but, except for facilities for persons with ~~mental—retardation,~~ *intellectual disabilities*, does not include any facility furnishing primarily domiciliary care.

7. “Nonprofit health facility” means any health facility owned and operated by a corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or natural person.

8. “Public health center” means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers.

9. “State Department” means the Department of Health and Human Services, acting through its appropriate divisions.

Sec. 107. NRS 449.400 is hereby amended to read as follows:

449.400 1. In order to provide state assistance for construction projects for publicly owned general hospitals, hospitals for the chronically ill and impaired, facilities for persons with ~~mental retardation,~~ *intellectual disabilities*, community mental health facilities, diagnostic or diagnostic and treatment centers, rehabilitation facilities, nursing homes and other facilities financed in part by federal funds in accordance with NRS 449.250 to 449.430, inclusive, and to promote maximum utilization of federal funds available for such projects, there is hereby created in the State Treasury a nonreverting trust fund to be known as the State Public Health Facilities Construction Assistance Fund. Money for the Fund may be provided from time to time by legislative appropriation.

2. The State Public Health Facilities Construction Assistance Fund must be administered by the State Department in accordance with the purposes and provisions of NRS 449.250 to 449.430, inclusive.

Sec. 108. NRS 449.410 is hereby amended to read as follows:

449.410 1. Money in the State Public Health Facilities Construction Assistance Fund must be used to supplement money from the Federal Government and money provided by the sponsor



of a project for approved projects for the construction of publicly owned general hospitals, hospitals for the chronically ill or impaired, facilities for persons with ~~{mental—retardation,}~~ *intellectual disabilities*, community mental health facilities, diagnostic or diagnostic and treatment centers, rehabilitation facilities, nursing homes and other facilities financed in part by federal funds pursuant to NRS 449.250 to 449.430, inclusive, and for no other purpose or purposes.

2. Applications for state assistance for construction projects must be submitted to the State Department for consideration in the manner prescribed in NRS 449.250 to 449.430, inclusive, for applications for federal assistance.

3. No project is entitled to receive state assistance unless it is entitled to receive federal assistance.

Sec. 109. (Deleted by amendment.)

Sec. 110. NRS 608.255 is hereby amended to read as follows:

608.255 For the purposes of this chapter and any other statutory or constitutional provision governing the minimum wage paid to an employee, the following relationships do not constitute employment relationships and are therefore not subject to those provisions:

1. The relationship between a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS and an individual with a disability who is participating in a training or rehabilitative program of such a facility or workshop.

2. The relationship between a provider of jobs and day training services which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3) and which has been issued a certificate by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 435.130 to 435.310, inclusive, and a person with ~~{mental retardation}~~ *an intellectual disability* or *a* person with *a* related ~~{conditions}~~ *condition* participating in a jobs and day training services program.

Secs. 111-117. (Deleted by amendment.)

Sec. 118. NRS 689A.045 is hereby amended to read as follows:

689A.045 1. Any health insurance policy delivered or issued for delivery after November 1, 1973, which provides for the termination of coverage on a dependent child of a policyholder when such child attains a contractually specified limiting age shall also provide that such coverage shall not terminate when the



dependent child reaches such age if such child is and continues to be:

(a) Incapable of self-sustaining employment due to a physical handicap or ~~mental retardation;~~ *an intellectual disability*; and

(b) Dependent on the policyholder for support and maintenance.

2. Proof of such child's incapacity and dependency shall be furnished to the insurer by the policyholder within 31 days after such child attains the specified limiting age and as often as the insurer may thereafter require, but no more than once a year beginning 2 years after such child attains the specified limiting age.

Sec. 119. NRS 689B.035 is hereby amended to read as follows:

689B.035 1. A group health insurance policy delivered or issued for delivery after November 1, 1973, which provides for the termination of coverage on a dependent child of a member of the insured group, when such child attains a contractually specified limiting age, shall also provide that such coverage shall not terminate when the dependent child reaches such age if such child is and continues to be:

(a) Incapable of self-sustaining employment due to a physical handicap or ~~mental retardation;~~ *an intellectual disability*; and

(b) Dependent on the member of the insured group for support and maintenance.

2. Proof of such child's incapacity and dependency shall be furnished to the insurer by the member of the insured group within 31 days after such child attains the specified limiting age and as often as the insurer may thereafter require, but no more than once a year beginning 2 years after such child attains the specified limiting age.

Sec. 120. 1. This act shall be construed as making amendments to provisions of state law for the purpose of substituting the term "intellectual disability" or a variation of that term for "mental retardation" or a variation of that term without any intent of the Nevada Legislature to change the coverage, eligibility, rights or responsibilities conferred by or otherwise resulting from the amendatory provisions of this act.

2. Any judicial interpretation of a state law entered before July 1, 2013, which includes an interpretation of the term "mental retardation" or a variation of that term which is amended by or as a result of this act to refer instead to "intellectual disability" or a variation of that term shall be deemed to have the same meaning as though the term had remained unchanged.



Sec. 121. In preparing supplements to the Nevada Administrative Code, the Legislative Counsel shall make such changes as necessary so that references to “mental retardation” and related terms are replaced with references to “intellectual disabilities” and related terms.

Sec. 122. This act becomes effective on July 1, 2013.

