

SENATE BILL NO. 463—COMMITTEE ON FINANCE

MARCH 25, 2013

Referred to Committee on Judiciary

SUMMARY—Provides for the implementation of the Court of Appeals. (BDR 1-1197)

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

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

AN ACT relating to the State Judicial Department; providing for the implementation of an intermediate appellate court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Senate Joint Resolution No. 14 of the 2011 Legislative Session proposes an amendment to the Nevada Constitution to create an intermediate appellate court, known as the Court of Appeals. If the Resolution is approved by the Legislature during the 2013 Legislative Session and ratified by the voters at the 2014 election, the Court of Appeals will consist of three judges, but the Legislature may by law increase the number of judges. The initial three judges must be appointed by the Governor from among three nominees for each seat chosen by the Commission on Judicial Selection. These initial judges will be appointed for a term of 2 years beginning on the first Monday of January of the year following the effective date of the constitutional amendment. After the initial terms, the judges of the Court of Appeals will be elected at the general election to serve a term of 6 years.

The Court of Appeals will have appellate jurisdiction in civil cases arising in district courts and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court must fix the jurisdiction of the Court of Appeals by rule and provide for the review of appeals decided by the Court of Appeals. In addition, the Nevada Supreme Court must provide by rule for the assignment of one or more judges of the Court of Appeals to devote a part of their time to serve as supplemental district judges, where needed.

This bill provides for the implementation of the Court of Appeals pursuant to the provisions of Senate Joint Resolution No. 14 of the 2011 Legislative Session.



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

Section 1. Title 1 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *The Court of Appeals shall consist of a Chief Judge and two associate judges. Each judge of the Court of Appeals hereafter elected or appointed must be commissioned by the Governor and, before entering upon the discharge of duties, shall take the constitutional oath of office.*

Sec. 3. 1. *A person may not be a candidate or be eligible for the office of judge of the Court of Appeals unless the person:*

(a) Has attained the age of 25 years.

(b) Is an attorney licensed and admitted to practice law in the courts of this State at the time of the election or appointment.

(c) Has been an attorney licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for not less than 15 years at any time preceding the election or appointment, at least 2 years of which have been in this State.

(d) Is a qualified elector and has been a bona fide resident of this State for 2 years next preceding the election or appointment.

(e) Has not ever been removed from any judicial office by the Legislature or removed or retired from any judicial office by the Commission on Judicial Discipline.

2. *For the purposes of this section, a person is eligible to be a candidate for the office of judge of the Court of Appeals if a decision to remove or retire the person from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.*

Sec. 4. *Except as otherwise provided in section 5 of this act, the judges of the Court of Appeals must be chosen at general elections by the qualified electors of this State. Except as otherwise provided in section 5 of this act, each judge holds office for a term of 6 years from and including the first Monday of January next after the election.*

Sec. 5. 1. *The initial three judges of the Court of Appeals must be appointed by the Governor from among three nominees selected for each individual office by the Commission on Judicial Selection pursuant to Section 20 of Article 6 of the Nevada Constitution within 30 days after the Commission delivers to the Governor its list of nominees.*

2. *If the Governor has not made the appointments required by subsection 1 within the 30-day time period, the Governor shall*



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1 *not make any other appointment to any public office until he or*
2 *she has appointed a judge from the list submitted pursuant to*
3 *subsection 1.*

4 *3. The judges appointed pursuant to this section shall serve a*
5 *term of 2 years beginning on the first Monday in January 2015.*

6 *Sec. 6. The Chief Justice of the Supreme Court shall appoint*
7 *one judge of the Court of Appeals to be the Chief Judge.*

8 *Sec. 7. Resignation of office by a judge of the Court of*
9 *Appeals must be made to the Governor and to the Court*
10 *Administrator. The Governor shall notify the Court Administrator*
11 *as soon as practicable upon his or her acceptance of the*
12 *resignation or retirement of a judge of the Court of Appeals.*

13 *Sec. 8. When any vacancy occurs in the office of judge of the*
14 *Court of Appeals, the Governor shall fill the same by granting a*
15 *commission, which expires at the next general election by the*
16 *people and upon the qualification of his or her successor, at which*
17 *election a judge must be chosen for the balance of the unexpired*
18 *term.*

19 *Sec. 9. 1. The annual base salary of each judge of the*
20 *Court of Appeals is \$165,000.*

21 *2. A judge of the Court of Appeals who has served as a justice*
22 *of the Supreme Court, judge of the Court of Appeals or judge of a*
23 *district court, or any combination thereof, for at least 4 years is*
24 *entitled to an additional salary of 2 percent of his or her annual*
25 *base salary for each year of service. The additional salary must*
26 *not exceed 22 percent of his or her annual base salary.*

27 *3. The salary provided for in this section is payable in*
28 *biweekly installments as other state officers are paid.*

29 *Sec. 10. The judges of the Court of Appeals shall also serve*
30 *as ex officio supplemental district judges, and in that capacity*
31 *shall perform such judicial duties as may be designated in the*
32 *rules adopted by the Supreme Court, Section 3A of Article 6 of the*
33 *Nevada Constitution.*

34 *Sec. 11. 1. Any judge of the Court of Appeals who has*
35 *served as a justice of the Supreme Court, judge of the Court of*
36 *Appeals or judge of a district court in any one or more of those*
37 *courts for a period or periods aggregating 22 years and has ended*
38 *such service is, after reaching the age of 60 years, entitled to*
39 *receive annually from the State of Nevada, as a pension during the*
40 *remainder of his or her life, a sum of money equal in amount to*
41 *three-fourths the sum received as a salary for his or her judicial*
42 *services during the last year thereof, payable monthly from the*
43 *Judicial Retirement Fund established pursuant to NRS 1A.160.*

44 *2. Any judge of the Court of Appeals who has served as a*
45 *justice of the Supreme Court, judge of the Court of Appeals or*



1 *judge of a district court in any one or more of those courts for a*
2 *period or periods aggregating 5 years and has ended such service*
3 *is, after reaching the age of 60 years, entitled to receive annually*
4 *from the State of Nevada, as a pension during the remainder of*
5 *his or her life, a sum of money equal in amount to 4.1666 percent*
6 *of the sum received as a salary for his or her judicial services*
7 *during the last year thereof, payable monthly from the Judicial*
8 *Retirement Fund established pursuant to NRS 1A.160.*

9 3. *Any judge of the Court of Appeals who qualifies for a*
10 *pension under the provisions of subsection 2 is entitled to receive,*
11 *for each year served beyond 5 years up to a maximum of 22 years,*
12 *an additional 4.1666 percent of the sum received as a salary for*
13 *his or her judicial services during the last year thereof, payable as*
14 *provided in subsection 2.*

15 4. *Any judge who has retired pursuant to subsection 3 and is*
16 *thereafter recalled to additional active service in the court system*
17 *is entitled to receive credit toward accumulating 22 years' service*
18 *for the maximum pension based upon the time he or she actually*
19 *spends in the additional active service.*

20 5. *Any judge who has the years of service necessary to retire*
21 *but has not attained the required age may retire at any age with a*
22 *benefit actuarially reduced to the required retirement age. A*
23 *benefit under this subsection must be reduced in the same manner*
24 *as benefits are reduced for persons retired under the Public*
25 *Employees' Retirement System.*

26 6. *Any person receiving a pension pursuant to the provisions*
27 *of this section is entitled to receive postretirement increases equal*
28 *to those provided for persons retired under the Public Employees'*
29 *Retirement System.*

30 7. *Any judge who desires to receive the benefits of this section*
31 *must file with the Executive Officer of the Public Employees'*
32 *Retirement Board an affidavit setting forth the fact that the judge*
33 *is ending his or her service, the date and place of his or her birth,*
34 *and the years he or she has served in any district court, the Court*
35 *of Appeals or the Supreme Court.*

36 8. *The faith of the State of Nevada is hereby pledged that this*
37 *section will not be repealed or amended so as to affect any judge*
38 *who may have ended his or her service pursuant to it.*

39 **Sec. 12.** 1. *A judge of the Court of Appeals who has served*
40 *as a justice of the Supreme Court, judge of the Court of Appeals or*
41 *judge of a district court in any one or more courts for a period or*
42 *periods aggregating 5 years or more and who becomes*
43 *permanently incapacitated, physically or mentally, to perform the*
44 *duties of office may retire from office regardless of age.*



2. Any judge who retires pursuant to the provisions of subsection 1 or who is retired because of advanced age or mental or physical disability pursuant to Section 21 of Article 6 of the Nevada Constitution is entitled to receive annually from the State of Nevada, as a pension during the remainder of his or her life, the same pension the judge would receive under section 11 of this act based on his or her years of service, but without regard to his or her age.

3. Any judge, or a guardian of a judge on behalf of the judge if the judge is unable to act, who desires to retire voluntarily must give notice in writing to the Governor. The Governor shall appoint three physicians licensed to practice medicine in the State of Nevada to examine the judge and report the results to the Governor in writing. If a majority of the physicians is of the opinion that the judge is permanently incapacitated, physically or mentally, the Governor shall approve the retirement. The judge or a guardian of the judge must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact of the judge's retirement and the years he or she has served in any or all of such courts.

4. Pensions payable pursuant to this section must be paid in the same manner as pensions are payable under section 11 of this act. Fees and expenses of physicians appointed pursuant to this section must be paid out of funds from the Judicial Retirement Administrative Fund established pursuant to NRS 1A.200.

5. The faith of the State of Nevada is hereby pledged that this section will not be repealed or amended so as to affect adversely any judge who may have retired or been retired pursuant to its provisions.

Sec. 13. 1. If a judge of the Court of Appeals at the time of his or her death had retired and was then receiving a pension under the provisions of section 11 of this act, or if at the time of his or her death the judge had not retired but had performed sufficient service for retirement under the provisions of section 11 of this act, the surviving spouse, if the spouse has attained the age of 60 years, is entitled, until the spouse's death or remarriage, to receive monthly payments of \$2,500 per month.

2. If a surviving spouse of a judge is not eligible to receive benefits pursuant to subsection 1, the spouse is entitled, until the spouse's death or remarriage or until the spouse becomes eligible to receive those benefits, to receive payments equal in amount to the payment provided in subsection 1 of NRS 286.674 for the spouse of a deceased member of the Public Employees' Retirement System.



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3. To obtain these benefits, the surviving spouse must make application to the Executive Officer of the Public Employees' Retirement Board and furnish such information as may be required pursuant to reasonable regulations adopted for the purpose of carrying out the intent of this section.

4. Any person receiving a benefit pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired under the Public Employees' Retirement System.

5. It is the intent of this section that no special fund be created for the purpose of paying these benefits, and all payments made under the provisions of this section are to be made out of and charged to the Judicial Retirement Fund established pursuant to NRS 1A.160.

Sec. 14. 1. Each child of a deceased judge of the Court of Appeals is entitled to receive payments equal in amount to the payments provided in NRS 286.673 for the child of a deceased member of the Public Employees' Retirement System.

2. In determining whether a child is a full-time student or financially dependent and physically or mentally incompetent, as provided in NRS 286.673, the Executive Officer of the Public Employees' Retirement Board shall use any applicable standards and procedures established by the Public Employees' Retirement Board.

3. It is the intent of this section that no special fund be created for the payment of benefits, and all payments made under the provisions of this section are to be made out of and charged to the Judicial Retirement Fund established pursuant to NRS 1A.160.

Sec. 15. 1. A judge of the Court of Appeals may designate, in writing, a survivor beneficiary and one or more additional payees to receive the payments provided pursuant to this section if the judge is unmarried on the date of his or her death. A designation pursuant to this section must be made on a form approved by the Court Administrator. If the judge has designated one or more payees in addition to the survivor beneficiary, the judge must designate the percentage of the payments that the survivor beneficiary and each additional payee is entitled to receive.

2. Except as otherwise provided in this subsection, if a judge of the Court of Appeals at the time of his or her death had retired and was then receiving a pension pursuant to the provisions of section 11 of this act, or if at the time of his or her death the judge had not retired but had performed sufficient service for retirement pursuant to the provisions of section 11 of this act, the survivor



1 *beneficiary designated pursuant to subsection 1, if the survivor*
2 *beneficiary has attained the age of 60 years, is entitled, until his or*
3 *her death, to receive monthly payments of \$2,500 per month. If the*
4 *judge had designated one or more payees in addition to the*
5 *survivor beneficiary pursuant to subsection 1, the monthly*
6 *payments paid pursuant to this subsection must be divided between*
7 *the survivor beneficiary and any additional payee in the*
8 *proportion designated by the judge pursuant to subsection 1.*

9 3. *Except as otherwise provided in this subsection, if a*
10 *survivor beneficiary of a judge is not eligible to receive benefits*
11 *pursuant to subsection 2, the survivor beneficiary is entitled, until*
12 *his or her death or until he or she becomes eligible to receive those*
13 *benefits, to receive payments equal in amount to the payment*
14 *provided in subsection 1 of NRS 286.67675 for the survivor*
15 *beneficiary of a deceased member of the Public Employees'*
16 *Retirement System. If the judge had designated one or more*
17 *payees in addition to the survivor beneficiary pursuant to*
18 *subsection 1, the payments paid pursuant to this subsection must*
19 *be divided between the survivor beneficiary and any additional*
20 *payee in the proportion designated by the judge pursuant to*
21 *subsection 1.*

22 4. *To obtain the benefits authorized by subsection 3, the*
23 *survivor beneficiary must make application to the Executive*
24 *Officer of the Public Employees' Retirement Board and furnish*
25 *such information as may be required pursuant to reasonable*
26 *regulations adopted for the purpose of carrying out the intent of*
27 *this section.*

28 5. *Any person receiving a benefit pursuant to the provisions*
29 *of this section is entitled to receive postretirement increases equal*
30 *to those provided for persons retired pursuant to the Public*
31 *Employees' Retirement System.*

32 6. *It is the intent of this section that no special fund be*
33 *created for the purpose of paying these benefits, and all payments*
34 *made pursuant to the provisions of this section are to be made out*
35 *of and charged to the Judicial Retirement Fund established*
36 *pursuant to NRS 1A.160.*

37 **Sec. 16.** *The provisions of sections 11 to 16, inclusive, of this*
38 *act:*

39 1. *Apply only to a judge of the Court of Appeals or a*
40 *surviving spouse or surviving child of a judge of the Court of*
41 *Appeals who served as a justice of the Supreme Court or district*
42 *judge before November 5, 2002;*

43 2. *Are administered by the Public Employees' Retirement*
44 *Board pursuant to NRS 1A.100; and*



3. *Are part of the Judicial Retirement System established pursuant to NRS 1A.100.*

Sec. 17. *The Supreme Court shall fix by rule the jurisdiction of the Court of Appeals and shall provide for the review, where appropriate, of appeals decided by the Court of Appeals.*

Sec. 18. *The Court of Appeals may reverse, affirm or modify the judgment or order appealed from as to any or all of the parties, and may, if necessary, order a new trial, and in a criminal action, order the new trial to be had in the proper place. On a direct appeal from an order in a civil action granting a motion to change the place of trial of an action or refusing to change the place of trial, the Court may affirm or reverse the order and order the trial to be had in the proper place. An order in a civil action changing or refusing to change the place of trial must not be appealed from on an appeal from a judgment, but only on direct appeal from the order changing or refusing to change the place of trial. When the judgment or order appealed from is reversed or modified, this Court may make, or direct the inferior court to make, complete restoration of all property and rights lost by the erroneous judgment or order.*

Sec. 19. *The Court of Appeals shall:*

1. Hold such regular sessions during each calendar year as are necessary to dispose of its business.

2. Always be open for the issuance of writs.

Sec. 20. *1. Immediately upon a case being submitted to the Court of Appeals it must be assigned to one member of the court for the preparation of an opinion.*

2. All opinions and decisions rendered by the Court of Appeals must be in writing, signed by the judges concurring therein, and must be spread at large on the records of the Court kept for that purpose.

Sec. 21. *A judge of the Court of Appeals shall not act as attorney or counsel in any court except in an action or proceeding to which the judge is a party on the record.*

Sec. 22. *A judge of the Court of Appeals shall not absent himself or herself from this State for more than 90 consecutive days. A violation of the provisions of this section shall work a forfeiture of office.*

Sec. 23. *The judges of the Court of Appeals have power in any part of the State to take and certify:*

1. The acknowledgment of conveyances and the satisfaction of a judgment of any court.

2. An affidavit to be used in any court of justice in this State.

Sec. 24. *1. Each judge of the Court of Appeals may use a facsimile signature produced through a mechanical device in*



1 *place of the judge's handwritten signature whenever the necessity*
2 *arises and upon approval of the Court of Appeals, subject to the*
3 *following conditions:*

4 *(a) That the mechanical device must be of such a nature that*
5 *the facsimile signature may be removed from the mechanical*
6 *device and kept in a separate secure place.*

7 *(b) That the use of the facsimile signature may be made only*
8 *under the direction and supervision of the justice whose signature*
9 *it represents.*

10 *(c) That the entire mechanical device must at all times be kept*
11 *in a vault, securely locked, when not in use, to prevent any misuse*
12 *of the device.*

13 *2. No facsimile signature produced through a mechanical*
14 *device authorized by the provisions of this section may be*
15 *combined with the signature of another officer.*

16 **Sec. 25.** *The Bailiff of the Supreme Court is ex officio bailiff*
17 *of the Court of Appeals.*

18 **Sec. 26.** *The Clerk of the Supreme Court is ex officio clerk of*
19 *the Court of Appeals.*

20 **Sec. 27.** *The Court of Appeals, or a majority thereof, is*
21 *authorized to employ stenographic clerks, law clerks, legal*
22 *assistants, legal secretaries and other necessary employees within*
23 *the limits of the appropriation made for the support of the Court of*
24 *Appeals.*

25 **Sec. 28.** NRS 1.010 is hereby amended to read as follows:
26 1.010 The following shall be the courts of justice for this State:

27 1. The Supreme Court.

28 2. *The Court of Appeals.*

29 3. The district courts.

30 ~~3.1~~ 4. Justice courts.

31 ~~4.1~~ 5. Such municipal courts as may from time to time be
32 established by the Legislature in incorporated cities or towns.

33 **Sec. 29.** NRS 1.020 is hereby amended to read as follows:

34 1.020 The following courts are courts of record:

35 1. The Supreme Court;

36 2. *The Court of Appeals;*

37 3. The district courts;

38 ~~3.1~~ 4. The Justice courts; and

39 ~~4.1~~ 5. The municipal courts:

40 (a) In any case in which a jury trial is required; or

41 (b) If so designated pursuant to NRS 5.010.

42 **Sec. 30.** NRS 1.115 is hereby amended to read as follows:

43 1.115 1. Except as otherwise provided in this section, each
44 court of justice for this State shall recycle or cause to be recycled the
45 paper and paper products it uses. This subsection does not apply to



1 confidential documents if there is an additional cost for recycling
2 those documents.

3 2. A court of justice may apply for a waiver from the
4 requirements of subsection 1. For such a waiver, the Supreme Court
5 *or the Court of Appeals* must apply to the Interim Finance
6 Committee, a district court or a justice court must apply to the board
7 of county commissioners of the county in which it is located and a
8 municipal court must apply to the governing body of the city in
9 which it is located. A waiver must be granted if it is determined that
10 the cost to recycle or cause to be recycled the paper and paper
11 products used by the court is unreasonable and would place an
12 undue burden on the operations of the court.

13 3. The Court Administrator shall, after consulting with the
14 State Department of Conservation and Natural Resources, prescribe
15 the procedure for the disposition of the paper and paper products to
16 be recycled. The Court Administrator may prescribe a procedure for
17 the recycling of other waste materials produced on the premises of
18 the court building.

19 4. Any money received by a court of justice for recycling or
20 causing to be recycled the paper and paper products it uses must be
21 paid by the clerk of that court to the State Treasurer for credit to the
22 State General Fund.

23 5. As used in this section:

24 (a) "Paper" includes newspaper, high-grade office paper, fine
25 paper, bond paper, offset paper, xerographic paper, mimeo paper,
26 duplicator paper and any other cellulosic material which contains
27 not more than 10 percent by weight or volume of a noncellulosic
28 material, including, but not limited to, a laminate, binder, coating
29 and saturant.

30 (b) "Paper product" means any paper article or commodity,
31 including, but not limited to, paper napkins, towels, cardboard,
32 construction material, paper and any other cellulosic material which
33 contains not more than 10 percent by weight or volume of a
34 noncellulosic material, including, but not limited to, a laminate,
35 binder, coating and saturant.

36 **Sec. 31.** NRS 1.140 is hereby amended to read as follows:

37 1.140 The Supreme Court, *the Court of Appeals*, the district
38 courts, the justice courts and those municipal courts designated as
39 courts of record pursuant to NRS 5.010 shall have a seal.

40 **Sec. 32.** NRS 1.225 is hereby amended to read as follows:

41 1.225 1. A justice of the Supreme Court *or a judge of the*
42 *Court of Appeals* shall not act as such in an action or proceeding
43 when the justice *or the judge* entertains actual bias or prejudice for
44 or against one of the parties to the action.



2. A justice of the Supreme Court *or a judge of the Court of Appeals* shall not act as such in an action or proceeding when implied bias exists in any of the following respects:

(a) When the justice *or the judge* is a party to or interested in the action or proceeding.

(b) When the justice *or the judge* is related to either party by consanguinity or affinity within the third degree.

(c) When the justice *or the judge* has been attorney or counsel for either of the parties in the particular action or proceeding before the court.

(d) When the justice *or the judge* is related to an attorney or counselor for either of the parties by consanguinity or affinity within the third degree.

3. A justice of the Supreme Court ~~††~~ *or a judge of the Court of Appeals*, upon ~~†the justice's†~~ *his or her* own motion, may disqualify himself or herself from acting in any matter upon the ground of actual or implied bias.

4. Any party to an action or proceeding seeking to disqualify a justice of the Supreme Court *or a judge of the Court of Appeals* for actual or implied bias shall file a charge in writing, specifying the facts upon which such disqualification is sought. Hearing on such charge shall be had before the other justices of the Supreme Court ~~††~~ *or, if the charge concerns a judge of the Court of Appeals, the justices of the Supreme Court.*

5. Upon the disqualification of ~~†a†~~ :

(a) *A justice of the Supreme Court pursuant to this section, a judge of the Court of Appeals or a district judge shall be designated to sit in place of the justice as provided in Section 4 of Article 6 of the Constitution of the State of Nevada.*

(b) *A judge of the Court of Appeals pursuant to this section, a district judge shall be designated to sit in place of the judge as provided in Section 4 of Article 6 of the Nevada Constitution.*

6. No person shall be punished for contempt for making, filing or presenting a charge for disqualification pursuant to subsection 4.

Sec. 33. NRS 1.235 is hereby amended to read as follows:

1.235 1. Any party to an action or proceeding pending in any court other than the Supreme Court ~~††~~ *or the Court of Appeals*, who seeks to disqualify a judge for actual or implied bias or prejudice must file an affidavit specifying the facts upon which the disqualification is sought. The affidavit of a party represented by an attorney must be accompanied by a certificate of the attorney of record that the affidavit is filed in good faith and not interposed for delay. Except as otherwise provided in subsections 2 and 3, the affidavit must be filed:



1 (a) Not less than 20 days before the date set for trial or hearing
2 of the case; or

3 (b) Not less than 3 days before the date set for the hearing of any
4 pretrial matter.

5 2. Except as otherwise provided in this subsection and
6 subsection 3, if a case is not assigned to a judge before the time
7 required under subsection 1 for filing the affidavit, the affidavit
8 must be filed:

9 (a) Within 10 days after the party or the party's attorney is
10 notified that the case has been assigned to a judge;

11 (b) Before the hearing of any pretrial matter; or

12 (c) Before the jury is empaneled, evidence taken or any ruling
13 made in the trial or hearing,

14 ➤ whichever occurs first. If the facts upon which disqualification of
15 the judge is sought are not known to the party before the party is
16 notified of the assignment of the judge or before any pretrial hearing
17 is held, the affidavit may be filed not later than the commencement
18 of the trial or hearing of the case.

19 3. If a case is reassigned to a new judge and the time for filing
20 the affidavit under subsection 1 and paragraph (a) of subsection 2
21 has expired, the parties have 10 days after notice of the new
22 assignment within which to file the affidavit, and the trial or hearing
23 of the case must be rescheduled for a date after the expiration of the
24 10-day period unless the parties stipulate to an earlier date.

25 4. At the time the affidavit is filed, a copy must be served upon
26 the judge sought to be disqualified. Service must be made by
27 delivering the copy to the judge personally or by leaving it at the
28 judge's chambers with some person of suitable age and discretion
29 employed therein.

30 5. The judge against whom an affidavit alleging bias or
31 prejudice is filed shall proceed no further with the matter and shall:

32 (a) Immediately transfer the case to another department of the
33 court, if there is more than one department of the court in the
34 district, or request the judge of another district court to preside at
35 the trial or hearing of the matter; or

36 (b) File a written answer with the clerk of the court within 5
37 judicial days after the affidavit is filed, admitting or denying any or
38 all of the allegations contained in the affidavit and setting forth any
39 additional facts which bear on the question of the judge's
40 disqualification. The question of the judge's disqualification must
41 thereupon be heard and determined by another judge agreed upon by
42 the parties or, if they are unable to agree, by a judge appointed:

43 (1) By the presiding judge of the judicial district in judicial
44 districts having more than one judge, or if the presiding judge of the



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judicial district is sought to be disqualified, by the judge having the greatest number of years of service.

(2) By the Supreme Court in judicial districts having only one judge.

Sec. 34. NRS 1.365 is hereby amended to read as follows:

1.365 1. All of the following claims must be submitted to the Executive Officer of the Public Employees' Retirement Board who shall process the claims:

(a) Claims of justices of the Supreme Court pursuant to NRS 2.060.

(b) *Claims of judges of the Court of Appeals pursuant to section 11 of this act.*

(c) *Claims pursuant to sections 13 and 15 of this act.*

(d) Claims pursuant to NRS 2.070 and 2.079.

~~(e)~~ (e) Claims of judges of the district courts pursuant to NRS 3.090.

~~(d)~~ (f) Claims pursuant to NRS 3.095 and 3.098.

2. The following claims must be submitted to the Court Administrator, who shall act as Administrative Officer in processing the claims:

(a) Claims of justices of the Supreme Court under NRS 2.050.

(b) *Claims of judges of the Court of Appeals under section 9 of this act.*

(c) Claims of judges of the district courts under NRS 3.030.

Sec. 35. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. A justice of the Supreme Court;

2. *A judge of the Court of Appeals;*

3. A judge of the district court;

~~3.~~ 4. A judge of the municipal court;

~~4.~~ 5. A justice of the peace; and

~~5.~~ 6. Any other officer of the Judicial Branch of this State, whether or not the officer is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.

Sec. 36. NRS 1.4675 is hereby amended to read as follows:

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

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

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

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



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

3 (b) Is found guilty or guilty but mentally ill of,
4 ➔ a crime punishable as a felony pursuant to the laws of the State of
5 Nevada or the United States. If the conviction is later reversed, the
6 judge must be paid his or her salary for the period of suspension.

7 3. In addition to the grounds set forth in subsection 2, the
8 Commission may suspend a judge from the exercise of office
9 without salary if the Commission determines that the judge:

10 (a) Has committed serious and repeated willful misconduct;

11 (b) Has willfully or persistently failed to perform the duties of
12 office; or

13 (c) Is habitually intemperate,

14 ➔ and the Commission determines that the circumstances
15 surrounding such conduct, including, without limitation, any
16 mitigating factors, merit disciplinary action more severe than
17 censure but less severe than removal.

18 4. During any stage of a disciplinary proceeding, the
19 Commission may suspend the judge from the exercise of office with
20 salary pending a final disposition of the complaint if the
21 Commission determines, by a preponderance of the evidence, that
22 the judge poses a substantial threat of serious harm to the public or
23 to the administration of justice.

24 5. The Commission shall give the judge 7 days' notice of its
25 intention to suspend the judge pursuant to this section and shall give
26 the judge an opportunity to respond. The Commission shall hold a
27 public hearing before ordering such a suspension, unless the judge
28 waives the right to the hearing. The decision of the Commission
29 must be made public.

30 6. A judge suspended pursuant to this section may appeal the
31 suspension to the *appellate court of competent jurisdiction*
32 *pursuant to the rules fixed by the* Supreme Court **+** *pursuant to*
33 *Section 4 of Article 6 of the Nevada Constitution.* If a judge
34 appeals such a suspension:

35 (a) The standard of review for such an appeal is an abuse of
36 discretion standard; and

37 (b) The proceedings held at the *appellate court of competent*
38 *jurisdiction pursuant to the rules fixed by the* Supreme Court
39 concerning the suspension must be open to the public.

40 7. Within 60 days after a decision by the Commission to
41 suspend a judge pursuant to this section, the Commission shall:

42 (a) Have a formal statement of charges filed against the judge;

43 (b) Rescind the suspension; or

44 (c) Enter into a deferred discipline agreement with the judge
45 pursuant to NRS 1.468.



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

Sec. 37. NRS 1A.030 is hereby amended to read as follows:

1A.030 1. "Compensation" means the salary paid to a justice of the Supreme Court ~~or~~, *a judge of the Court of Appeals or a* district judge by this State, to a justice of the peace by a county or to a municipal judge by a city, including:

(a) Base pay, which is the monthly rate of pay excluding all fringe benefits;

(b) Additional payment for longevity; and

(c) Payment for extra duty assignments if it is the standard practice of this State, the county or the city to include such pay in the employment contract or official job description for the calendar year in which it is paid and such pay is specifically included in the justice's or judge's employment contract or official job description.

2. The term does not include any type of payment not specifically described in this section.

Sec. 38. NRS 1A.040 is hereby amended to read as follows:

1A.040 "Disability retirement allowance" means monthly payments from the Judicial Retirement Fund paid to persons with disabilities who are retired justices of the Supreme Court, *judges of the Court of Appeals*, district judges, justices of the peace or municipal judges pursuant to the Judicial Retirement Plan.

Sec. 39. NRS 1A.060 is hereby amended to read as follows:

1A.060 "Retired justice or judge" means a justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace or municipal judge who was a member of the Judicial Retirement Plan at the time he or she retired or a justice of the Supreme Court, *judge of the Court of Appeals* or district judge who decides, pursuant to NRS 1A.270 or 1A.280, to receive benefits for retirement pursuant to the Judicial Retirement Plan.

Sec. 40. NRS 1A.070 is hereby amended to read as follows:

1A.070 "Service" means all creditable employment which is validated pursuant to the provisions of this chapter and can be used in determining eligibility and scope of benefits for justices of the Supreme Court, *judges of the Court of Appeals*, district judges, justices of the peace or municipal judges pursuant to the Judicial Retirement Plan.

Sec. 41. NRS 1A.080 is hereby amended to read as follows:

1A.080 "Service retirement allowance" means monthly payments from the Judicial Retirement Fund paid to a retired justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace or municipal judge pursuant to the Judicial Retirement Plan for the remainder of his or her life.



1 **Sec. 42.** NRS 1A.100 is hereby amended to read as follows:

2 1A.100 1. A system of retirement providing benefits for the
3 retirement, disability or death of all justices of the Supreme Court ,
4 ***judges of the Court of Appeals*** and district judges, and certain
5 justices of the peace and municipal judges, and funded on an
6 actuarial reserve basis is hereby established and must be known as
7 the Judicial Retirement System.

8 2. The System consists of the Judicial Retirement Plan and the
9 provisions set forth in NRS 2.060 to 2.083, inclusive, and 3.090 to
10 3.099, inclusive, ***and sections 11 to 16, inclusive, of this act*** for
11 providing benefits to justices of the Supreme Court , ***judges of the***
12 ***Court of Appeals*** or district judges who served either as a justice of
13 the Supreme Court or district judge before November 5, 2002. Each
14 justice of the Supreme Court , ***judge of the Court of Appeals*** or
15 district judge who is not a member of the Public Employees'
16 Retirement System is a member of the Judicial Retirement System.

17 3. The official correspondence and records, other than the files
18 of individual members of the System or retired justices or judges,
19 and, except as otherwise provided in NRS 241.035, the minutes,
20 audio recordings, transcripts and books of the System are public
21 records and are available for public inspection.

22 4. The System must be administered exclusively by the Board,
23 which shall make all necessary rules and regulations for the
24 administration of the System. The rules must include, without
25 limitation, rules relating to the administration of the retirement plans
26 in accordance with federal law. The Legislature shall regularly
27 review the System.

28 **Sec. 43.** NRS 1A.110 is hereby amended to read as follows:

29 1A.110 All records maintained for a member of the System,
30 retired justice or judge, justice of the Supreme Court , ***judge of the***
31 ***Court of Appeals*** or district judge who retired pursuant to NRS
32 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099,
33 inclusive, ***or sections 11 to 16, inclusive, of this act*** or the
34 beneficiary of any of them may be reviewed and copied only by the
35 System, the member, the Court Administrator, the board of county
36 commissioners if the records concern a justice of the peace or retired
37 justice of the peace whom the board of county commissioners
38 allowed to participate in the Judicial Retirement Plan pursuant to
39 NRS 1A.285, the city council if the records concern a municipal
40 judge or retired municipal judge whom the city council allowed to
41 participate in the Judicial Retirement Plan pursuant to NRS 1A.285,
42 the spouse of the member, or the retired justice or judge or his or her
43 spouse, or pursuant to a court order, or by a beneficiary after the
44 death of the justice or judge on whose account benefits are received
45 pursuant to the System. Any member, retired justice or judge, justice



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1 of the Supreme Court , *judge of the Court of Appeals* or district
2 judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or
3 ~~pursuant to NRS~~ 3.090 to 3.099, inclusive, *or sections 11 to 16,*
4 *inclusive, of this act* or beneficiary may submit a written waiver to
5 the System authorizing his or her representative to review or copy
6 all such records.

7 **Sec. 44.** NRS 1A.130 is hereby amended to read as follows:

8 1A.130 1. Applications for service retirement allowances or
9 disability retirement allowances must be submitted to the offices of
10 the System on forms approved by the Executive Officer of the
11 Board. The form must not be deemed filed unless it contains:

12 (a) The member of the Judicial Retirement Plan's selection of
13 the retirement plan contained in NRS 1A.440 or one of the optional
14 plans provided in NRS 1A.450;

15 (b) A notarized statement of the marital status of the member of
16 the Judicial Retirement Plan; and

17 (c) If the member of the System is married, a statement of the
18 spouse's consent or objection to the chosen retirement plan, signed
19 by the spouse and notarized.

20 2. Except as otherwise required by NRS 1A.390, retirement
21 becomes effective on whichever of the following days is the later:

22 (a) The day immediately following the applicant's last day of
23 employment;

24 (b) The day the completed application form is filed with the
25 System;

26 (c) The day immediately following the applicant's last day of
27 creditable service; or

28 (d) The effective date of retirement specified on the application
29 form.

30 3. The selection of a retirement plan by a member of the
31 Judicial Retirement Plan and consent or objection to that plan by the
32 spouse pursuant to this section does not affect the responsibility of
33 the member concerning the rights of any present or former spouse.

34 4. The System is not liable for any damages resulting from the
35 false designation of marital status by a member of the System or a
36 retired justice or judge, or a justice of the Supreme Court , *judge of*
37 *the Court of Appeals* or district judge who retires pursuant to NRS
38 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099,
39 inclusive ~~H~~ , *or sections 11 to 16, inclusive, of this act.*

40 **Sec. 45.** NRS 1A.140 is hereby amended to read as follows:

41 1A.140 Any person convicted of the murder or voluntary
42 manslaughter of a member of the System is ineligible to receive any
43 benefit conferred by any provision of this chapter or NRS 2.060 to
44 2.083, inclusive, or 3.090 to 3.099, inclusive, *or sections 11 to 16,*
45 *inclusive, of this act* by reason of the death of that member. The



1 System may withhold the payment of any benefit otherwise payable
2 under this chapter by reason of the death of any member of the
3 System from any person charged with the murder or voluntary
4 manslaughter of that member, pending final determination of those
5 charges.

6 **Sec. 46.** NRS 1A.160 is hereby amended to read as follows:

7 1A.160 1. The Judicial Retirement Fund is hereby
8 established as a trust fund.

9 2. It is hereby declared to be the policy of the Legislature that
10 the Judicial Retirement Fund is established to afford a degree of
11 security to long-time justices of the Supreme Court, *judges of the*
12 *Court of Appeals*, district judges, justices of the peace and
13 municipal judges in this State. The money in the Fund must not be
14 used or appropriated for any purpose incompatible with the
15 provisions of this chapter or NRS 2.060 to 2.083, inclusive, or 3.090
16 to 3.099, inclusive *H*, *or sections 11 to 16, inclusive, of this act.*
17 The Fund must be invested and administered to ensure the highest
18 return consistent with safety in accordance with accepted investment
19 practices.

20 3. All money appropriated by the Legislature to the Judicial
21 Retirement Fund, all money submitted to the System for deposit in
22 the Fund pursuant to NRS 1A.180 and all income accruing to the
23 Fund from all other sources must be deposited in the Fund.

24 4. The interest and income earned on the money in the Judicial
25 Retirement Fund, after deducting any applicable charges, must be
26 credited to the Fund.

27 5. The System must pay all retirement allowances, benefits,
28 optional settlements and other obligations or payments payable by
29 the System pursuant to this chapter and NRS 2.060 to 2.083,
30 inclusive, and 3.090 to 3.099, inclusive, *and sections 11 to 16,*
31 *inclusive, of this act* from the Judicial Retirement Fund. The money
32 in the Fund must be expended by the Board for the payment of
33 expenses authorized by law to be paid from the Fund.

34 **Sec. 47.** NRS 1A.180 is hereby amended to read as follows:

35 1A.180 1. The Court Administrator shall submit to the
36 System for deposit in the Judicial Retirement Fund on behalf of each
37 justice of the Supreme Court, *judge of the Court of Appeals* or
38 district judge who is a member of the System the percentage of
39 compensation of the member that is determined by the actuary of the
40 System to be required to pay the normal cost incurred in making
41 payments for such members pursuant to subsection 5 of NRS
42 1A.160 and the administrative expenses of the System that are
43 attributable to such members. Such payments must be:

44 (a) Accompanied by payroll reports that include information
45 deemed necessary by the Board to carry out its duties; and



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(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the Court Administrator. The compensation must be reported separately for each month that it is paid.

2. The State of Nevada shall make an appropriation to the Court Administrator and the Court Administrator shall pay to the System for deposit in the Judicial Retirement Fund from any fund created for the purpose of paying pension benefits to justices of the Supreme Court, *judges of the Court of Appeals* or district judges an amount as the contribution of the State of Nevada as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the Supreme Court, *judges of the Court of Appeals* and district judges for which the System will be liable.

3. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the peace or municipal judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the county or city. The compensation must be reported separately for each month that it is paid.

4. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall pay to the System for deposit in the Judicial Retirement Fund an amount as the contribution of the county or city as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the peace and municipal judges for which the System will be liable.

5. Except as otherwise provided in this subsection, the total contribution rate that is actuarially determined for members of the Judicial Retirement Plan must be adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution



1 rate indicated in the biennial actuarial valuation and report. The
2 adjusted rate must be rounded to the nearest one-quarter of 1
3 percent. The total contribution rate must not be adjusted pursuant to
4 this subsection if the existing rate is within one-half of 1 percent of
5 the actuarially determined rate.

6 **Sec. 48.** NRS 1A.220 is hereby amended to read as follows:

7 1A.220 1. The Board, subject to the limitations of this
8 chapter, is responsible for managing the System.

9 2. The Board shall:

10 (a) Arrange for a biennial actuarial valuation and report of the
11 actuarial soundness of the System to be prepared by an independent
12 actuary based upon data compiled and supplied by employees of the
13 System, and shall adopt actuarial tables and formulas prepared and
14 recommended by the actuary;

15 (b) Provide for a biennial audit of the System, including, without
16 limitation, the Judicial Retirement Administrative Fund, by an
17 independent certified public accountant; and

18 (c) Provide an annual report concerning the System established
19 pursuant to this chapter to the Court Administrator, each board of
20 county commissioners that allows justices of the peace to participate
21 in the Judicial Retirement Plan pursuant to NRS 1A.285, each city
22 council that allows municipal judges to participate in the Judicial
23 Retirement Plan pursuant to NRS 1A.285, the Governor and each
24 member of the Legislature, and make the report available to all
25 members of the System upon request. The report must contain,
26 when available, a review of the actuarial valuation required by
27 paragraph (a).

28 3. The Board may:

29 (a) Adjust the service or correct the records, allowance or
30 benefits of any member of the System, retired justice or judge or
31 beneficiary after an error or inequity has been determined, and
32 require repayment of any money determined to have been paid by
33 the System in error, if the money was paid within 6 years before
34 demand for its repayment.

35 (b) Examine and copy personnel and financial records of:

36 (1) A justice of the Supreme Court , *judge of the Court of*
37 *Appeals* or district judge that are maintained by the Court
38 Administrator;

39 (2) A justice of the peace who participates in the Judicial
40 Retirement Plan pursuant to NRS 1A.285 that are maintained by a
41 county; and

42 (3) A municipal judge who participates in the Judicial
43 Retirement Plan pursuant to NRS 1A.285 that are maintained by a
44 city.



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(c) Require an annual notarized statement from a retired justice or judge or beneficiary that he or she is in fact receiving an allowance or benefits, and withhold the allowance or benefits if he or she fails to provide the statement.

4. As used in this section, "error or inequity" means the existence of extenuating circumstances, including, without limitation, a member's reasonable and detrimental reliance on representations made by the System which prove to be erroneous, or the mental incapacity of the member.

Sec. 49. NRS 1A.250 is hereby amended to read as follows:

1A.250 Except as specifically provided in this chapter, the accounts of members of the System and recipients of benefits of the System must be administered in accordance with the provisions of chapter 286 of NRS as if the justice of the Supreme Court, *the judge of the Court of Appeals*, the district judge, the justice of the peace or the municipal judge were or had been a member of the Public Employees' Retirement System.

Sec. 50. NRS 1A.260 is hereby amended to read as follows:

1A.260 1. No person may become a member of the System unless the person is a justice of the Supreme Court, *a judge of the Court of Appeals* or a district judge, or a justice of the peace or municipal judge who is allowed and elects to participate in the Judicial Retirement Plan pursuant to NRS 1A.285.

2. Except as otherwise provided in NRS 1A.370, persons retired under the provisions of this chapter who are employed as a justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace or municipal judge in any judicial capacity, including, without limitation, employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System, are not eligible to become members of the System.

Sec. 51. NRS 1A.270 is hereby amended to read as follows:

1A.270 1. Each justice of the Supreme Court, *judge of the Court of Appeals* or district judge who is elected or appointed as a justice of the Supreme Court, *a judge of the Court of Appeals* or a district judge on or after November 5, 2002, who takes office on or after January 1, 2003, and who previously has not served as either a justice of the Supreme Court, *a judge of the Court of Appeals* or a district judge must receive benefits for retirement, benefits for disability and survivor benefits under the Judicial Retirement Plan, if eligible to receive such benefits under the Judicial Retirement Plan, unless the justice or judge is a member of the Public Employees' Retirement System. If the justice or judge is a member of the Public Employees' Retirement System, he or she will remain



1 a member unless he or she withdraws from the Public Employees'
2 Retirement System pursuant to NRS 1A.280, if eligible to do so.

3 2. Each justice of the Supreme Court , *judge of the Court of*
4 *Appeals* or district judge who is elected or appointed as a justice of
5 the Supreme Court , *judge of the Court of Appeals* or district judge
6 on or after November 5, 2002, and who previously has served as
7 either a justice of the Supreme Court or a district judge and each
8 justice of the Supreme Court or district judge who is serving as a
9 justice of the Supreme Court or district judge on November 5, 2002,
10 must receive benefits for retirement, benefits for disability and
11 survivor benefits pursuant to : ~~either:~~

12 (a) NRS 2.060 to 2.083, inclusive, or 3.090 to 3.099, inclusive,
13 as those sections existed on November 5, 2002, if eligible to receive
14 such benefits under such provisions;

15 *(b) Sections 11 to 16, inclusive, of this act, if eligible to receive*
16 *such benefits under such provisions;* or

17 ~~[(b)]~~ (c) The Judicial Retirement Plan, if eligible to receive such
18 benefits under the Judicial Retirement Plan,

19 ➤ whichever is most beneficial to the justice or judge or his or her
20 survivor, as determined by the justice or judge at the time of
21 retirement or the time at which the justice or judge becomes
22 disabled, or as determined by his or her survivor at the time of his or
23 her death, unless the justice or judge is a member of the Public
24 Employees' Retirement System. If the justice or judge is a member
25 of the Public Employees' Retirement System, the justice or judge
26 will remain a member unless the justice or judge withdraws from the
27 Public Employees' Retirement System pursuant to NRS 1A.280, if
28 eligible to do so. A survivor may not change a determination that
29 affects the survivor and which was made by a justice or judge
30 pursuant to this section while the justice or judge was alive.

31 3. A determination made pursuant to subsection 2 is final and if
32 a justice or judge or the survivor of the justice or judge determines
33 pursuant to subsection 2:

34 (a) To receive benefits pursuant to the Judicial Retirement Plan,
35 the justice, judge or survivor may not receive benefits pursuant to
36 NRS 2.060 to 2.083, inclusive, or ~~[pursuant to NRS]~~ 3.090 to 3.099,
37 inclusive ~~[(a)]~~ , *or sections 11 to 16, inclusive, of this act;* or

38 (b) To receive benefits pursuant to NRS 2.060 to 2.083,
39 inclusive, or ~~[pursuant to NRS]~~ 3.090 to 3.099, inclusive, *or*
40 *sections 11 to 16, inclusive, of this act,* the justice, judge or survivor
41 may not receive benefits pursuant to the Judicial Retirement Plan.

42 4. No justice of the Supreme Court , *judge of the Court of*
43 *Appeals* or district judge or survivor of a justice of the Supreme
44 Court , *judge of the Court of Appeals* or district judge may receive
45 benefits under both this chapter and:



- (a) NRS 2.060 to 2.083, inclusive; ~~for~~
- (b) *Sections 11 to 16, inclusive, of this act; or*
- (c) NRS 3.090 to 3.099, inclusive.

5. A justice of the Supreme Court , *judge of the Court of Appeals* or district judge or a survivor of a justice of the Supreme Court , *judge of the Court of Appeals* or district judge who is receiving retirement allowances pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, on January 1, 2003, is not eligible for transfer to the Judicial Retirement Plan.

Sec. 52. NRS 1A.280 is hereby amended to read as follows:

1A.280 1. A person who is elected or appointed as a justice of the Supreme Court , *judge of the Court of Appeals* or district judge on or after November 5, 2002, and takes office on or after January 1, 2003, and who is a member of the Public Employees' Retirement System established pursuant to chapter 286 of NRS on the date that he or she is elected or appointed may withdraw from the Public Employees' Retirement System and become a member of the Judicial Retirement Plan if the justice or judge gives written notice to the Board of his or her intention to withdraw from the Public Employees' Retirement System and to become a member of the Judicial Retirement Plan. Such notice must be given to the Board within the time set forth in subsection 3 and must be given the first time that the justice or judge is elected or appointed while he or she is a member of the Public Employees' Retirement System.

2. A justice or judge may not become a member of the Judicial Retirement Plan pursuant to subsection 1 if the justice or judge has previously been elected or appointed on or after November 5, 2002, and taken office on or after January 1, 2003, while the justice or judge was a member of the Public Employees' Retirement System and the justice or judge did not give notice of his or her intention to withdraw from the Public Employees' Retirement System and to become a member of the Judicial Retirement Plan in the manner set forth in this section.

3. Written notice given pursuant to subsection 1 must be received by the Board:

(a) If the justice or judge is elected, by March 31 of the year immediately following the year in which he or she was elected; or

(b) If the justice or judge is appointed, within 90 days after his or her appointment.

4. If the Board receives notice pursuant to this section that a justice or judge intends to withdraw from the Public Employees' Retirement System, it shall transfer from the Public Employees' Retirement Fund to the Judicial Retirement Plan the accrued actuarial liability and credit for service earned by the justice or



1 judge while a member of the Public Employees' Retirement System
2 as determined by an actuary of the Judicial Retirement System. The
3 service so transferred must be accredited under the Judicial
4 Retirement Plan as if performed in the Public Employees'
5 Retirement System.

6 5. If the Board does not receive written notice that a justice or
7 judge intends to withdraw from the Public Employees' Retirement
8 System pursuant to subsection 3, the justice or judge will remain a
9 member of the Public Employees' Retirement System.

10 6. A justice or judge who exercises the option granted by this
11 section may not re-establish the service for which the liabilities were
12 transferred.

13 7. No justice of the Supreme Court , *judge of the Court of*
14 *Appeals* or district judge or survivor of a justice of the Supreme
15 Court , *judge of the Court of Appeals* or district judge may receive
16 benefits under both this chapter and chapter 286 of NRS.

17 8. A justice of the Supreme Court , *judge of the Court of*
18 *Appeals* or district judge or survivor of a justice of the Supreme
19 Court , *judge of the Court of Appeals* or district judge who is
20 receiving a retirement allowance from the Public Employees'
21 Retirement System on January 1, 2003, is not eligible for transfer to
22 the Judicial Retirement Plan.

23 **Sec. 53.** NRS 1A.290 is hereby amended to read as follows:

24 1A.290 1. Membership of a justice of the Supreme Court , *a*
25 *judge of the Court of Appeals* or a district judge in the System
26 terminates upon:

27 (a) The death of the member;

28 (b) Receipt of retirement allowances by the member of the
29 Judicial Retirement Plan or retirement benefits pursuant to NRS
30 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099,
31 inclusive ~~+~~ , *or sections 11 to 16, inclusive, of this act;* or

32 (c) Receipt of disability allowances by the member of the
33 Judicial Retirement Plan or disability benefits pursuant to NRS
34 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099,
35 inclusive ~~+~~ , *or sections 11 to 16, inclusive, of this act.*

36 2. Membership of a justice of the peace or municipal judge in
37 the System terminates upon:

38 (a) The death of the member;

39 (b) Receipt of retirement allowances; or

40 (c) Receipt of disability allowances.

41 3. A retired justice or judge is not entitled to any right
42 conferred by this chapter upon a member of the System unless the
43 provision conferring that right expressly states that it is conferred
44 upon a retired justice or judge.



4. A justice of the Supreme Court , *a judge of the Court of Appeals* or a district judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099, inclusive, *or sections 11 to 16, inclusive, of this act* is not entitled to any right conferred by this chapter upon a member of the System unless the provision conferring that right expressly states that it is conferred upon a justice or judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or ~~pursuant to NRS~~ 3.090 to 3.099, inclusive ~~+~~ *or sections 11 to 16, inclusive, of this act.*

Sec. 54. NRS 1A.300 is hereby amended to read as follows:

1A.300 1. A plan under which all justices of the Supreme Court , *judges of the Court of Appeals* and district judges who are elected or appointed for the first time as ~~either~~ a justice of the Supreme Court , *judge of the Court of Appeals* or district judge on or after November 5, 2002, and who take office on or after January 1, 2003, and who withdraw from the Public Employees' Retirement System, if eligible to do so, must receive benefits for retirement, disability and death, and under which justices of the peace and municipal judges who are allowed to participate in the plan pursuant to NRS 1A.285 may receive benefits for retirement, disability and death, is hereby established and must be known as the Judicial Retirement Plan.

2. Each justice of the Supreme Court , *judge of the Court of Appeals* or district judge elected or appointed for the first time as ~~either~~ a justice of the Supreme Court , *judge of the Court of Appeals* or district judge on or after November 5, 2002, and who takes office on or after January 1, 2003, and who withdraws pursuant to NRS 1A.280 from the Public Employees' Retirement System, if eligible to do so, is a member of the Judicial Retirement Plan.

3. Each justice of the peace and municipal judge who is allowed and who elects to participate in the Judicial Retirement Plan pursuant to NRS 1A.285 is a member of the Judicial Retirement Plan.

4. Benefits are earned pursuant to the Judicial Retirement Plan in the manner set forth in NRS 1A.120 to 1A.150, inclusive, 1A.190, 1A.240 and 1A.310 to 1A.670, inclusive.

Sec. 55. NRS 1A.360 is hereby amended to read as follows:

1A.360 1. Except as otherwise provided in subsection 4 and NRS 1A.370, if a retired justice or judge accepts employment as a justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace or municipal judge in any judicial capacity, including, without limitation, employment as a senior justice, senior judge, senior justice of the peace or senior municipal judge of the Nevada Court System, the retired justice or judge is



1 disqualified from receiving any allowances under the Judicial
2 Retirement Plan for the duration of his or her active service.

3 2. If a retired justice or judge accepts any employment other
4 than that described in subsection 1, the justice or judge is entitled to
5 the same allowances as a retired justice or judge who has no
6 employment.

7 3. If a retired justice or judge who accepts employment as a
8 justice of the Supreme Court, *judge of the Court of Appeals*, district
9 judge, justice of the peace or municipal judge in a judicial capacity
10 pursuant to this section elects not to reenroll in the Judicial
11 Retirement Plan pursuant to subsection 1 of NRS 1A.370, the Court
12 Administrator if the retired justice or judge is a justice of the
13 Supreme Court, *a judge of the Court of Appeals* or a district judge,
14 the county if the retired justice or judge is a justice of the peace or
15 the city if the retired justice or judge is a municipal judge, may pay
16 contributions on behalf of the retired justice or judge to a retirement
17 fund which is not a part of the Judicial Retirement Plan in an
18 amount not to exceed the amount of the contributions that the Court
19 Administrator, county or city would pay to the System on behalf of
20 a participating justice or judge who is employed in a similar
21 position.

22 4. The provisions of subsection 1 do not apply to a retired
23 justice or judge who accepts employment as a senior justice, senior
24 judge, senior justice of the peace or senior municipal judge of the
25 Nevada Court System if the retired justice or judge is at least 60
26 years of age at the time of reemployment and the retired justice or
27 judge accepts the employment at least 6 months after the effective
28 date of his or her retirement pursuant to subsection 2 of
29 NRS 1A.130.

30 **Sec. 56.** NRS 1A.370 is hereby amended to read as follows:

31 1A.370 1. A retired justice or judge who accepts employment
32 as a justice of the Supreme Court, *judge of the Court of Appeals*,
33 district judge, justice of the peace or municipal judge in any judicial
34 capacity, including, without limitation, employment as a senior
35 justice, senior judge, senior justice of the peace or senior municipal
36 judge of the Nevada Court System, may enroll in the Judicial
37 Retirement Plan as of the effective date of that employment unless
38 the retired justice or judge is reemployed pursuant to subsection 4 of
39 NRS 1A.360. As of the date of enrollment:

40 (a) The retired justice or judge forfeits all retirement allowances
41 for the duration of that employment; and

42 (b) Except as otherwise required as a result of NRS 1A.400 or
43 1A.410, if the duration of the employment is at least 6 months, the
44 retired justice or judge gains additional service credit for that
45 employment and is entitled to have a separate service retirement



1 allowance calculated based on his or her compensation and service,
2 effective upon the termination of that employment. If the duration of
3 the employment is:

4 (1) Less than 5 years, the additional allowance must be added
5 to the retired justice's or judge's original allowance and must be
6 under the same option and designate the same beneficiary as the
7 original allowance; or

8 (2) Five years or more, the additional allowance may be
9 under any option and designate any beneficiary in accordance with
10 NRS 1A.430.

11 2. The original service retirement allowance of such a retired
12 justice or judge must not be recalculated based upon the additional
13 service credit, nor is the retired justice or judge entitled to any of the
14 rights of membership that were not in effect at the time of his or her
15 original retirement. The accrual of service credit pursuant to this
16 section is subject to the limits imposed by:

17 (a) NRS 1A.440; and

18 (b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415.

19 3. Except as otherwise required as a result of NRS 1A.400 or
20 1A.410, a retired justice or judge who has been receiving a
21 retirement allowance pursuant to the Judicial Retirement Plan and
22 who is reemployed and is enrolled in the Plan for at least 5 years
23 may have his or her additional credit for service added to his or her
24 previous credit for service. This additional credit for service must
25 not apply to more than one period of employment after the original
26 retirement.

27 4. The survivor of a deceased member of the Judicial
28 Retirement Plan who had previously retired and was reemployed
29 and enrolled in the Plan, who qualifies for benefits pursuant to NRS
30 1A.340 and 1A.530 to 1A.670, inclusive, is eligible for the benefits
31 based on the service accrued through the second period of
32 employment.

33 **Sec. 57.** NRS 1A.440 is hereby amended to read as follows:

34 1A.440 Except as otherwise required as a result of NRS
35 1A.400 or 1A.410:

36 1. Except as otherwise provided in this subsection, a monthly
37 service retirement allowance must be determined by multiplying a
38 member of the Judicial Retirement Plan's average compensation by
39 3.4091 percent for each year of service, except that a member of the
40 Plan is entitled to a benefit of not more than 75 percent of the
41 member's average compensation.

42 2. For the purposes of this section, "average compensation"
43 means the average of a member of the Plan's 36 consecutive months
44 of highest compensation as certified by the Court Administrator if
45 the member is a justice of the Supreme Court , *a judge of the Court*



1 *of Appeals* or a district judge, by the county if the member is a
2 justice of the peace or by the city if the member is a municipal
3 judge.

4 **Sec. 58.** NRS 1A.470 is hereby amended to read as follows:

5 1A.470 1. In addition to the options provided in NRS
6 287.023 and subject to the requirements of that section, any justice
7 of the Supreme Court, *judge of the Court of Appeals*, district judge,
8 justice of the peace or municipal judge who retires under the
9 conditions set forth in NRS 1A.350 and, at the time of retirement,
10 was covered or had his or her dependents covered by any group
11 insurance or medical and hospital service established pursuant to
12 NRS 287.010, 287.020 or paragraph (b), (c) or (d) of subsection 1 of
13 NRS 287.025, has the option of having the Executive Officer of the
14 Board deduct and pay his or her premium or contribution for that
15 group insurance or medical and hospital service coverage, as well as
16 the amount due or to become due upon any obligation designated by
17 the Board pursuant to subsection 2, from his or her monthly
18 retirement allowance until:

19 (a) The justice or judge notifies the Executive Officer of the
20 Board to discontinue the deduction; or

21 (b) Any of the dependents of the justice or judge elect to assume
22 the premium or contribution applicable to the dependent's coverage
23 before the death of such a retired justice or judge and continue
24 coverage pursuant to NRS 287.023 after the justice's or judge's
25 death.

26 2. The Board may adopt regulations to carry out the provisions
27 of subsection 1, including, without limitation, regulations governing
28 the number and types of obligations, amounts for the payment of
29 which may be deducted and paid by the Board at the option of the
30 retired justice or judge pursuant to this section.

31 3. The Executive Officer of the Board, the Board and the
32 System are not liable for any damages resulting from errors or
33 omissions concerning the deductions and payment of premiums or
34 contributions authorized pursuant to this section unless willful
35 neglect or gross negligence is proven.

36 **Sec. 59.** NRS 1A.480 is hereby amended to read as follows:

37 1A.480 1. A member of the Judicial Retirement Plan who has
38 5 years or more of service credit and who becomes totally unable to
39 perform his or her current job or any comparable job for which he or
40 she is qualified by training and experience because of injury or
41 mental or physical illness of a permanent nature is eligible to apply
42 for disability retirement if:

43 (a) Except as otherwise provided in subsection 5, the member's
44 employment as a justice of the Supreme Court, *judge of the Court*



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1 *of Appeals*, district judge, justice of the peace or municipal judge
2 will be terminated because of the disability;

3 (b) The member is employed as a justice of the Supreme Court,
4 *a judge of the Court of Appeals*, a district judge, a justice of the
5 peace or a municipal judge at the time of application for disability
6 retirement;

7 (c) The member proves that the disability renders the member
8 unable to perform the duties of his or her present position and of any
9 other position the member has held within the past year;

10 (d) The member files a notarized application for disability
11 retirement with the System which indicates a selection of option and
12 to which is attached a personal statement by the member of the
13 Judicial Retirement Plan describing the disability, the duties which
14 the member can and cannot perform, and any benefits the member is
15 entitled to receive for disability from any other public source; and

16 (e) The Court Administrator if the member is a justice of the
17 Supreme Court , *a judge of the Court of Appeals* or a district judge,
18 the county if the member is a justice of the peace or the city if the
19 member is a municipal judge, files an official statement certifying
20 the member's employment record, record of disability, absences that
21 have occurred because of the disability, the effect upon the work of
22 the member after the disability, and job functions that can and
23 cannot be performed because of the disability.

24 2. Except as otherwise required as a result of NRS 1A.410, the
25 amount of the disability retirement allowance must be calculated in
26 the same manner as provided for service retirement calculations in
27 NRS 1A.440, except that no reduction for the age of a member of
28 the Judicial Retirement Plan may be made and that the allowance
29 must be reduced by the amount of any other benefit received from
30 any source on account of the same disability:

31 (a) If the benefit is provided or was purchased by the
32 expenditure of money by a Nevada public employer; and

33 (b) To the extent that the total of the unmodified benefit and the
34 other benefit would otherwise exceed the member's average
35 compensation.

36 3. A member of the Judicial Retirement Plan may apply for
37 disability retirement even if the member is eligible for service
38 retirement.

39 4. Each child of a deceased recipient of a disability retirement
40 allowance is entitled to receive the benefits provided by NRS
41 1A.580 only if the decedent had not reached the age and completed
42 the service required to be eligible for a service retirement allowance,
43 except that these benefits must not be paid to anyone who is named
44 as a beneficiary under one of the options to an unmodified
45 allowance.



5. If a member of the Judicial Retirement Plan whose application for disability retirement has been:

(a) Approved dies before his or her employment is terminated, but within 60 days after the application was approved; or

(b) Mailed before his or her death, as indicated by the date of the postmark dated by the post office on the envelope in which it was mailed, dies before the Board has acted upon the application and the Board approves thereafter the application,

➔ the beneficiary of the member is entitled to receive an allowance under the option selected rather than the benefit otherwise provided for a survivor.

6. The termination or adjustment of a disability retirement allowance resulting from the death of a recipient of an allowance pursuant to this section must not become effective until the first day of the month immediately following the death of the recipient.

7. As used in this section, "public employer" has the meaning ascribed to it in NRS 286.070.

Sec. 60. NRS 1A.510 is hereby amended to read as follows:

1A.510 1. Except as otherwise provided in subsection 2, whenever a recipient of a disability retirement allowance pursuant to NRS 1A.480 returns to employment as a justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace or municipal judge, the allowance must be discontinued and the member's service credit at the time of disability retirement must be restored. The member shall retire under the same retirement plan previously selected for retirement on account of disability if the member returns to disability retirement or elects service retirement within 1 year after the member's return to employment.

2. A recipient of a disability retirement allowance may be employed and continue to receive his or her allowance if the member applies to the Board for approval of the employment before the member begins to work and the Board approves the member's application. The application must include:

(a) A full description of the proposed employment; and

(b) A statement written by the member of the System declaring the reasons why the proposed employment should not be found to conflict with the member's disability.

Sec. 61. NRS 1A.520 is hereby amended to read as follows:

1A.520 1. A person may submit a judgment, decree or order of a district court, *the Court of Appeals* or the Supreme Court of the State of Nevada relating to child support, alimony or the disposition of community property to the Executive Officer of the Board or the Executive Officer's designee for a determination of whether the judgment, decree or order entitles an alternate payee to receive from the System all or a portion of the allowance or benefit



1 of a member of the Judicial Retirement Plan or a retired justice or
2 judge.

3 2. The judgment, decree or order submitted to the Executive
4 Officer of the Board or the Executive Officer's designee must be
5 signed by a district judge , *the judges of the Court of Appeals* or
6 ~~by~~ the justices of the Supreme Court and entered and certified by
7 the clerk of the district court or the Clerk of the Supreme Court.

8 3. The Executive Officer of the Board or the Executive
9 Officer's designee shall, in accordance with rules prescribed by the
10 Board, determine whether the judgment, decree or order entitles the
11 alternate payee to receive an allowance or benefit from the System.
12 An alternate payee is entitled to receive an allowance or benefit
13 from the Judicial Retirement Plan if the judgment, decree or order:

14 (a) Specifies clearly the names and last known mailing
15 addresses, if any, of the member of the Judicial Retirement Plan or
16 retired justice or judge and the alternate payee;

17 (b) Specifies clearly the amount, percentage or manner of
18 determining the amount of the allowance or benefit of the member
19 of the Judicial Retirement Plan or retired justice or judge that must
20 be paid by the System to each alternate payee;

21 (c) Specifically directs the System to pay an allowance or
22 benefit to the alternate payee;

23 (d) Does not require the System to provide an allowance or
24 benefit or any option not otherwise provided under this chapter; and

25 (e) Does not require the payment of an allowance or benefit to
26 an alternate payee before the retirement of a member of the Judicial
27 Retirement Plan.

28 4. For the purposes of this subsection, "alternate payee" means
29 a spouse, former spouse, child or other dependent of a member of
30 the Judicial Retirement Plan or retired justice or judge who,
31 pursuant to a judgment, decree or order relating to child support,
32 alimony or the disposition of community property, is entitled to
33 receive all or a portion of the allowance or benefit of a member or
34 retired justice or judge from the System.

35 **Sec. 62.** NRS 1A.570 is hereby amended to read as follows:

36 1A.570 1. Except as otherwise provided in subsection 3, if a
37 deceased member of the Judicial Retirement Plan had 2 years of
38 creditable service in the 2 1/2 years immediately preceding the
39 member's death, or if the employee had 10 or more years of
40 creditable service, certain of his or her dependents are eligible for
41 payments as provided in NRS 1A.530 to 1A.670, inclusive. If the
42 death of the member resulted from a mental or physical condition
43 which required the member to leave his or her position as a justice
44 of the Supreme Court, *judge of the Court of Appeals*, district judge,
45 justice of the peace or municipal judge or go on leave without pay,



1 eligibility pursuant to the provisions of this section extends for 18
2 months after the member's termination or commencement of leave
3 without pay.

4 2. If the death of a member of the Judicial Retirement Plan
5 occurs while the member is on leave of absence for further training
6 and if the member met the requirements of subsection 1 at the time
7 his or her leave began, certain of the member's dependents are
8 eligible for payments as provided in subsection 1.

9 3. If the death of a member of the Judicial Retirement Plan is
10 caused by an occupational disease or an accident arising out of and
11 in the course of the member's employment, no prior creditable
12 service is required to make the member's dependents eligible for
13 payments pursuant to NRS 1A.530 to 1A.670, inclusive, except that
14 this subsection does not apply to an accident occurring while the
15 member is traveling between the member's home and his or her
16 principal place of employment.

17 4. As used in this section, "dependent" includes a survivor
18 beneficiary designated pursuant to NRS 1A.620.

19 **Sec. 63.** NRS 1A.670 is hereby amended to read as follows:

20 1A.670 The amount of each monthly allowance paid as
21 specified in NRS 1A.580 to 1A.660, inclusive, must not exceed the
22 deceased member of the Judicial Retirement Plan's average
23 compensation and must be reduced by the amount of any other
24 benefit received from any source:

25 1. If that benefit was provided or purchased by the expenditure
26 of money by this State if the deceased member was a justice of the
27 Supreme Court, *judge of the Court of Appeals* or district judge, by
28 the county if the deceased member was a justice of the peace or by
29 the city if the deceased member was a municipal judge, except for
30 lump-sum payments under a group insurance program; and

31 2. To the extent that the total of the allowance and the other
32 benefit would otherwise exceed the deceased member's average
33 compensation.

34 **Sec. 64.** NRS 2.060 is hereby amended to read as follows:

35 2.060 1. Any justice of the Supreme Court who has served as
36 a justice or judge of *the Court of Appeals* or a district court in any
37 one or more of those courts for a period or periods aggregating 22
38 years and has ended such service is, after reaching the age of 60
39 years, entitled to receive annually from the State of Nevada, as a
40 pension during the remainder of his or her life, a sum of money
41 equal in amount to three-fourths the sum received as a salary for
42 his or her judicial services during the last year thereof, payable
43 monthly from the Judicial Retirement Fund established pursuant to
44 NRS 1A.160.



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2. Any justice of the Supreme Court who has served as a justice or judge of *the Court of Appeals* or a district court in any one or more of those courts for a period or periods aggregating 5 years and has ended such service is, after reaching the age of 60 years, entitled to receive annually from the State of Nevada, as a pension during the remainder of his or her life, a sum of money equal in amount to 4.1666 percent of the sum received as a salary for his or her judicial services during the last year thereof, payable monthly from the Judicial Retirement Fund established pursuant to NRS 1A.160.

3. Any justice of the Supreme Court who qualifies for a pension under the provisions of subsection 2 is entitled to receive, for each year served beyond 5 years up to a maximum of 22 years, an additional 4.1666 percent of the sum received as a salary for his or her judicial services during the last year thereof, payable as provided in subsection 2.

4. Any justice who has retired pursuant to subsection 3 and is thereafter recalled to additional active service in the court system is entitled to receive credit toward accumulating 22 years' service for the maximum pension based upon the time he or she actually spends in the additional active service.

5. Any justice who has the years of service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced to the required retirement age. A benefit under this subsection must be reduced in the same manner as benefits are reduced for persons retired under the Public Employees' Retirement System.

6. Any person receiving a pension pursuant to the provisions of this section is entitled to receive postretirement increases equal to those provided for persons retired under the Public Employees' Retirement System.

7. Any justice who desires to receive the benefits of this section must file with the Executive Officer of the Public Employees' Retirement Board an affidavit setting forth the fact that the justice is ending his or her service, the date and place of his or her birth, and the years he or she has served in any district court, *the Court of Appeals* or the Supreme Court.

8. Any justice who has retired and is thereafter recalled to additional active service in the court system as a senior justice is entitled to receive a retirement allowance during the period of reemployment in addition to compensation for services.

9. The faith of the State of Nevada is hereby pledged that this section shall not be repealed or amended so as to affect any justice who may have ended his or her service pursuant to it.



1 **Sec. 65.** NRS 2.065 is hereby amended to read as follows:

2 2.065 1. A justice of the Supreme Court who has served as a
3 justice, *judge of the Court of Appeals* or as a district judge in any
4 one or more courts for a period or periods aggregating 5 years or
5 more and who becomes permanently incapacitated, physically or
6 mentally, to perform the duties of office may retire from office
7 regardless of age.

8 2. Any justice who retires pursuant to the provisions of
9 subsection 1 or who is retired because of advanced age or mental or
10 physical disability pursuant to Section 21 of Article 6 of the
11 Constitution of the State of Nevada is entitled to receive annually
12 from the State of Nevada, as a pension during the remainder of his
13 or her life, the same pension the justice would receive under NRS
14 2.060 based on his or her years of service, but without regard to his
15 or her age.

16 3. Any justice, or a guardian of a justice on behalf of the justice
17 if the justice is unable to act, who desires to retire voluntarily must
18 give notice in writing to the Governor. The Governor shall appoint
19 three physicians licensed to practice medicine in the State of Nevada
20 to examine the justice and report the results to the Governor in
21 writing. If a majority of the physicians is of the opinion that the
22 justice is permanently incapacitated, physically or mentally, the
23 Governor shall approve the retirement. The justice or a guardian of
24 the justice must file with the Executive Officer of the Public
25 Employees' Retirement Board an affidavit setting forth the fact of
26 the justice's retirement and the years he or she has served in either
27 or both of such courts.

28 4. Pensions payable pursuant to this section must be paid in the
29 same manner as pensions are payable under NRS 2.060. Fees and
30 expenses of physicians appointed pursuant to this section must be
31 paid out of funds from the Judicial Retirement Administrative Fund
32 established pursuant to NRS 1A.200.

33 5. The faith of the State of Nevada is hereby pledged that this
34 section will not be repealed or amended so as to affect adversely any
35 justice who may have retired or been retired pursuant to its
36 provisions.

37 **Sec. 66.** NRS 2.320 is hereby amended to read as follows:

38 2.320 The Clerk of the Supreme Court and the Official
39 Reporter are ex officio reporters of decisions. Whenever any case is
40 finally determined by the Supreme Court ~~H~~ *or the Court of*
41 *Appeals*, the reporters of decisions shall make a synopsis of the
42 opinion and decision of the Supreme Court *or the Court of Appeals,*
43 *as applicable*, in the case. A copy of the opinion together with the
44 synopsis must be filed by the reporters of decisions with the State
45 Printer.



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1 **Sec. 67.** NRS 2.340 is hereby amended to read as follows:

2 2.340 1. The State Printer shall furnish the reporters of
3 decisions with proof sheets for their verification and correction
4 before publication in permanent form. The State Printer then shall
5 print immediately each complete Supreme Court decision *and Court*
6 *of Appeals decision* in pamphlet form and shall furnish the Clerk of
7 the Supreme Court with as many pamphlet copies of each decision
8 as the Clerk determines are necessary for distribution to licensed
9 attorneys, or any person mentioned in NRS 2.345, or for his or her
10 use and the use of the justices of the Supreme Court ~~H~~ *and the*
11 *judges of the Court of Appeals*. Each decision must be printed and
12 pamphlet copies returned to the Clerk of the Supreme Court within
13 14 days, not including the day of delivery, after the decision has
14 been furnished to the State Printer by the Clerk of the Court. For
15 good cause shown, the Chief Justice of the Supreme Court may
16 extend the time within which the decision or decisions may be
17 published.

18 2. At the time of delivering the copy of any decision to the
19 State Printer pursuant to the provisions of NRS 2.320, which must
20 be immediately after the decision is filed, the Clerk of the Supreme
21 Court shall take a receipt for the decision. The receipt must set forth
22 the date of delivery and the title and number of the case.

23 **Sec. 68.** NRS 2.370 is hereby amended to read as follows:

24 2.370 1. The stenographic clerks of the Supreme Court shall,
25 without additional compensation, assist the reporters of decisions in
26 the preparation of the material for the Nevada Reports.

27 2. Immediately after the filing of any decision by the Supreme
28 Court ~~H~~ *or the Court of Appeals*, the Clerk of the Supreme Court
29 shall mail a copy of such decision to counsel upon each side of the
30 case, which copy shall bear the certificate of such Clerk to be a full,
31 true and correct copy of such decision.

32 **Sec. 69.** NRS 3.090 is hereby amended to read as follows:

33 3.090 1. Any judge of the district court who has served as a
34 justice of the Supreme Court , *judge of the Court of Appeals* or
35 judge of a district court in any one or more of those courts for a
36 period or periods aggregating 22 years and has ended such service
37 is, after reaching the age of 60 years, entitled to receive annually
38 from the State of Nevada, as a pension during the remainder of his
39 or her life, a sum of money equal in amount to three-fourths the sum
40 received as a salary for his or her judicial services during the last
41 year thereof, payable monthly from the Judicial Retirement Fund
42 established pursuant to NRS 1A.160.

43 2. Any judge of the district court who has served as a justice of
44 the Supreme Court , *judge of the Court of Appeals* or judge of a
45 district court in any one or more of those courts for a period or



1 periods aggregating 5 years and has ended such service is, after
2 reaching the age of 60 years, entitled to receive annually from the
3 State of Nevada, as a pension during the remainder of his or her life,
4 a sum of money equal in amount to 4.1666 percent of the sum
5 received as a salary for his or her judicial services during the last
6 year thereof, payable monthly from the Judicial Retirement Fund
7 established pursuant to NRS 1A.160.

8 3. Any judge of the district court who qualifies for a pension
9 under the provisions of subsection 2 is entitled to receive, for each
10 year served beyond 5 years up to a maximum of 22 years, an
11 additional 4.1666 percent of the sum received as a salary for his or
12 her judicial services during the last year thereof, payable as provided
13 in subsection 2.

14 4. Any judge who has retired pursuant to subsection 3 and is
15 thereafter recalled to additional active service in the court system is
16 entitled to receive credit toward accumulating 22 years' service for
17 the maximum pension based upon the time he or she actually spends
18 in the additional active service.

19 5. Any district judge who has the years of service necessary to
20 retire but has not attained the required age may retire at any age with
21 a benefit actuarially reduced to the required retirement age. A
22 retirement benefit under this subsection must be reduced in the same
23 manner as benefits are reduced for persons retired under the Public
24 Employees' Retirement System.

25 6. Any person receiving a pension pursuant to the provisions of
26 this section is entitled to receive postretirement increases equal to
27 those provided for persons retired in the Public Employees'
28 Retirement System.

29 7. Any judge of the district court who desires to receive the
30 benefits of this section must file with the Executive Officer of the
31 Public Employees' Retirement Board an affidavit setting forth
32 the fact that he or she is ending his or her service, the date and place
33 of his or her birth, and the years he or she has served in any district
34 court, *the Court of Appeals* or the Supreme Court.

35 8. Any judge who has retired and is thereafter recalled to
36 additional active service in the court system as a senior judge, senior
37 justice of the peace or senior municipal court judge is entitled to
38 receive a retirement allowance during the period of reemployment in
39 addition to compensation for services.

40 9. The faith of the State of Nevada is hereby pledged that this
41 section shall not be repealed or amended so as to affect any judge of
42 the district court who may have ended his or her service pursuant to
43 it.



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1 **Sec. 70.** NRS 3.092 is hereby amended to read as follows:

2 3.092 1. A district judge who has served as a district judge, *a*
3 *judge of the Court of Appeals* or ~~last~~ a justice of the Supreme Court
4 in any one or more courts for a period or periods aggregating 5 years
5 or more and who becomes permanently incapacitated, physically or
6 mentally, to perform the duties of office may retire from office
7 regardless of age.

8 2. Any district judge who retires pursuant to the provisions of
9 subsection 1 or who is retired because of advanced age or physical
10 or mental disability pursuant to Section 21 of Article 6 of the
11 Constitution of the State of Nevada is entitled to receive annually
12 from the State of Nevada, a pension for the remainder of his or her
13 life, the same pension the judge would receive under NRS 3.090
14 based on his or her years of service but without regard to his or her
15 age.

16 3. Any judge, or a guardian of a judge on behalf of the judge if
17 the judge is unable to act, who desires to retire voluntarily must give
18 notice in writing to the Governor. The Governor shall appoint three
19 physicians licensed to practice medicine in the State of Nevada to
20 examine the judge and report the results to the Governor in writing.
21 If a majority of the physicians is of the opinion that the judge is
22 permanently incapacitated, physically or mentally, the Governor
23 shall approve the retirement. The judge or a guardian of the judge
24 must file with the Executive Officer of the Public Employees'
25 Retirement Board an affidavit setting forth the fact of the judge's
26 retirement and the years he or she has served in either or both of
27 such courts.

28 4. Pensions payable pursuant to this section must be paid in the
29 same manner as pensions payable under NRS 3.090. Fees and
30 expenses of physicians appointed pursuant to this section must be
31 paid from the Judicial Retirement Administrative Fund established
32 pursuant to NRS 1A.200.

33 5. The faith of the State of Nevada is hereby pledged that this
34 section will not be repealed or amended so as to affect adversely any
35 judge who may have retired or been retired pursuant to its
36 provisions.

37 **Sec. 71.** NRS 6.140 is hereby amended to read as follows:

38 6.140 In any county, if the district judge for any reason fails or
39 refuses to select a grand jury when required, any interested person
40 resident of the county may apply to the *appellate court of*
41 *competent jurisdiction pursuant to the rules fixed by the* Supreme
42 Court *pursuant to Section 4 of Article 6 of the Nevada*
43 *Constitution* for an order directing the selection of a grand jury. The
44 application must be supported by affidavits setting forth the true
45 facts as known to the applicant, and the certificate of the county



1 clerk that a grand jury has not been selected within the time fixed or
2 otherwise as the facts may be. The *appellate court of competent*
3 *jurisdiction pursuant to the rules fixed by the* Supreme Court shall
4 issue its order, if satisfied that a grand jury should be called,
5 directing the county clerk to select and impanel a grand jury,
6 according to the provisions of NRS 6.110 to 6.132, inclusive.

7 **Sec. 72.** NRS 7.125 is hereby amended to read as follows:

8 7.125 1. Except as limited by subsections 2, 3 and 4, an
9 attorney, other than a public defender, who is appointed by a
10 magistrate or a district court to represent or defend a defendant at
11 any stage of the criminal proceedings from the defendant's initial
12 appearance before the magistrate or the district court through the
13 appeal, if any, is entitled to receive a fee for court appearances and
14 other time reasonably spent on the matter to which the appointment
15 is made of \$125 per hour in cases in which the death penalty is
16 sought and \$100 per hour in all other cases. Except for cases in
17 which the most serious crime is a felony punishable by death or by
18 imprisonment for life with or without possibility of parole, this
19 subsection does not preclude a governmental entity from contracting
20 with a private attorney who agrees to provide such services for a
21 lesser rate of compensation.

22 2. Except as otherwise provided in subsection 4, the total fee
23 for each attorney in any matter regardless of the number of offenses
24 charged or ancillary matters pursued must not exceed:

25 (a) If the most serious crime is a felony punishable by death or
26 by imprisonment for life with or without possibility of parole,
27 \$20,000;

28 (b) If the most serious crime is a felony other than a felony
29 included in paragraph (a) or is a gross misdemeanor, \$2,500;

30 (c) If the most serious crime is a misdemeanor, \$750;

31 (d) For an appeal of one or more misdemeanor convictions,
32 \$750; or

33 (e) For an appeal of one or more gross misdemeanor or felony
34 convictions, \$2,500.

35 3. Except as otherwise provided in subsection 4, an attorney
36 appointed by a district court to represent an indigent petitioner for
37 a writ of habeas corpus or other postconviction relief, if the petitioner
38 is imprisoned pursuant to a judgment of conviction of a gross
39 misdemeanor or felony, is entitled to be paid a fee not to exceed
40 \$750.

41 4. If the appointing court because of:

42 (a) The complexity of a case or the number of its factual or legal
43 issues;

44 (b) The severity of the offense;

45 (c) The time necessary to provide an adequate defense; or



* S B 4 6 3 R 1 *

(d) Other special circumstances,
➔ deems it appropriate to grant a fee in excess of the applicable maximum, the payment must be made, but only if the court in which the representation was rendered certifies that the amount of the excess payment is both reasonable and necessary and the payment is approved by the presiding judge of the judicial district in which the attorney was appointed, or if there is no such presiding judge or if he or she presided over the court in which the representation was rendered, then by the district judge who holds seniority in years of service in office.

5. The magistrate, the district court, *the Court of Appeals* or the Supreme Court may, in the interests of justice, substitute one appointed attorney for another at any stage of the proceedings, but the total amount of fees granted to all appointed attorneys must not exceed those allowable if but one attorney represented or defended the defendant at all stages of the criminal proceeding.

Sec. 73. NRS 18.060 is hereby amended to read as follows:

18.060 In the following cases the costs of an appeal to the *Court of Appeals or the* Supreme Court shall be in the discretion of the court:

1. Where a new trial is ordered.

2. When a judgment is modified.

➔ In the event no order is made by the court relative to the costs in the two instances mentioned in this section, the party obtaining any relief shall have his or her costs.

Sec. 74. NRS 19.0335 is hereby amended to read as follows:

19.0335 1. Except as otherwise provided in NRS 19.034, on the commencement of any civil action in the district court for which a filing fee is required, the clerk of court shall collect, in addition to any other fee required by law, the following fees in any action that involves more than one plaintiff and one defendant:

(a) A fee of \$30 for each additional plaintiff named in a complaint when the complaint is filed.

(b) A fee of \$30 for each additional defendant named in an answer when the answer is filed, or a fee of \$30 for each additional party appearing in the action when the additional party appears in the action.

(c) If a complaint is amended to name an additional plaintiff, a fee of \$30 for each additional plaintiff named when the complaint is amended.

2. On or before the first Monday of each month, the clerk of court shall pay over to the county treasurer the amount of all fees collected by the clerk of the court pursuant to subsection 1. The county treasurer shall distribute, on or before the 15th day of that



1 month, the money received in the following amounts for each fee
2 received:

3 (a) Eight dollars for credit to a special account in the county
4 general fund for the use of the district court for advanced and
5 improved technological purposes. The special account is restricted
6 to the use specified, the money in the special account must not be
7 used to supplant existing budgets for maintenance and support of
8 technology, and the balance in the special account must be carried
9 forward at the end of each fiscal year.

10 (b) Seven dollars for credit to a special account in the county
11 general fund in each county in which legal services are provided
12 without charge to indigent or elderly persons through a program for
13 legal aid organized under the auspices of the State Bar of Nevada, a
14 county or local bar association, a county or municipal program for
15 legal services or other program funded by this State or the United
16 States to provide legal assistance. The county treasurer shall remit
17 quarterly to the organization operating the program for legal
18 services all the money received by the county treasurer from the
19 clerk of court. The organization operating the program for legal
20 services shall use any money received pursuant to this paragraph as
21 follows:

22 (1) Five dollars for the benefit of indigent persons in the
23 county; and

24 (2) Two dollars for the benefit of elderly persons in the
25 county.

26 (c) Ten dollars to the State Controller for credit to a special
27 account in the State General Fund. The State Controller shall
28 distribute the money received to the Office of Court Administrator
29 for use in support and maintenance of case management systems
30 approved by the Office of Court Administrator, for statewide
31 technological purposes and for distribution to the courts for
32 technological purposes. The special account is restricted to the use
33 specified, and the balance in the special account must be carried
34 forward at the end of each fiscal year.

35 (d) Five dollars to the State Controller for credit to a special
36 account in the State General Fund. The State Controller shall
37 distribute the money received to the Office of Court Administrator
38 for the payment for the services of retired justices, *retired judges of*
39 *the Court of Appeals* and retired district judges. The special account
40 is restricted to the use specified, and the balance in the special
41 account must be carried forward at the end of each fiscal year.

42 3. As used in this section:

43 (a) "Office of Court Administrator" means the Office of Court
44 Administrator created pursuant to NRS 1.320.



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(b) "Technological purposes" means the acquisition or improvement of technology, including, without limitation, acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.

Sec. 75. NRS 29A.020 is hereby amended to read as follows:

29A.020 The Supreme Court, *the Court of Appeals* or each district court shall adopt rules providing for the setting of trials for summary proceedings and such other rules as it deems necessary to carry out the provisions of this chapter.

Sec. 76. NRS 34.020 is hereby amended to read as follows:

34.020 1. This writ may be granted, on application, by the Supreme Court, *the Court of Appeals*, a district court, or a judge of the district court. When the writ is issued by the district court or a judge of the district court it shall be made returnable before the district court.

2. The writ shall be granted in all cases when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer and there is no appeal, nor, in the judgment of the court, any plain, speedy and adequate remedy.

3. In any case prosecuted for the violation of a statute or municipal ordinance wherein an appeal has been taken from a Justice Court or from a municipal court, and wherein the district court has passed upon the constitutionality or validity of such statute or ordinance, the writ shall be granted by the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* upon application of the State or municipality or defendant, for the purpose of reviewing the constitutionality or validity of such statute or ordinance, but in no case shall the defendant be tried again for the same offense.

Sec. 77. NRS 34.160 is hereby amended to read as follows:

34.160 The writ may be issued by the Supreme Court, *the Court of Appeals*, a district court or a judge of the district court, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person. When issued by a district court or a judge of the district court it shall be made returnable before the district court.



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1 **Sec. 78.** NRS 34.330 is hereby amended to read as follows:

2 34.330 The writ may be issued only by the Supreme Court , *the*
3 *Court of Appeals* or a district court to an inferior tribunal, or to a
4 corporation, board or person, in all cases where there is not a plain,
5 speedy and adequate remedy in the ordinary course of law. It is
6 issued upon affidavit, on the application of the person beneficially
7 interested.

8 **Sec. 79.** NRS 34.400 is hereby amended to read as follows:


9 34.400 The writ must be directed to the person who has the
10 petitioner in custody or under restraint, commanding the person to
11 have the body of the petitioner produced before the district court ,
12 *Court of Appeals* or Supreme Court at a time which the judge or
13 justice directs.

14 **Sec. 80.** NRS 34.540 is hereby amended to read as follows:

15 34.540 Any Supreme Court justice , *judge of the Court of*
16 *Appeals* or judge, before whom any person who has been committed
17 on a criminal charge before conviction is brought on a writ of
18 habeas corpus, if that person is bailable, may take a recognizance
19 from that person, as in other cases, and shall file the same in the
20 proper court without delay. In no case where the applicant for a writ
21 of habeas corpus has been admitted to bail and failed to appear
22 before the Supreme Court justice, *the judge of the Court of*
23 *Appeals*, the judge or presiding judge of the court wherein the bail
24 was fixed may the proceedings for a writ of habeas corpus be
25 dismissed, except upon good cause shown. Upon the failure of that
26 person to appear, the justice, *judge of the Court of Appeals*, district
27 judge or presiding judge shall cause a bench warrant to be issued
28 and that person arrested and brought before the justice, judge or
29 court as upon contempt.

30 **Sec. 81.** NRS 34.560 is hereby amended to read as follows:

31 34.560 1. In cases where any party is held under illegal
32 restraint or custody, or any other person is entitled to the restraint or
33 custody of such party, the judge may order such party to be
34 committed to the restraint or custody of such person as is by law
35 entitled thereto.

36 2. If a party is ordered committed to the restraint or custody of
37 an officer from a jurisdiction outside the State of Nevada, the
38 district judge ordering such commitment shall stay the enforcement
39 thereof for 5 days, during which time an aggrieved party may file a
40 notice of appeal therefrom to the *appellate court of competent*
41 *jurisdiction pursuant to the rules fixed by the* Supreme Court 
42 *pursuant to Section 4 of Article 6 of the Nevada Constitution.*

43 3. Upon the filing of a notice of appeal as provided in
44 subsection 2, the enforcement of such order of commitment shall be
45 stayed during the pendency of the appeal.



4. During any period of stay as provided in this section, the local officer having custody of such party shall retain custody thereof.

Sec. 82. NRS 34.575 is hereby amended to read as follows:

34.575 1. An applicant who, after conviction or while no criminal action is pending against the applicant, has petitioned the district court for a writ of habeas corpus and whose application for the writ is denied, may appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* from the order and judgment of the district court, but the appeal must be made within 30 days after service by the court of written notice of entry of the order or judgment.

2. The State of Nevada is an interested party in proceedings for a writ of habeas corpus. If the district court grants the writ and orders the discharge or a change in custody of the petitioner, the district attorney of the county in which the application for the writ was made, or the city attorney of a city which is situated in the county in which the application for the writ was made, or the Attorney General on behalf of the State, may appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* from the order of the district judge within 30 days after the service by the court of written notice of entry of the order.

3. Whenever an appeal is taken from an order of the district court discharging a petitioner or committing a petitioner to the custody of another person after granting a pretrial petition for habeas corpus based on alleged want of probable cause, or otherwise challenging the court's right or jurisdiction to proceed to trial of a criminal charge, the clerk of the district court shall forthwith certify and transmit to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~§~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution*, as the record on appeal, the original papers on which the petition was heard in the district court and, if the appellant or respondent demands it, a transcript of any evidentiary proceedings had in the district court. The district court shall require its court reporter to expedite the preparation of the transcript in preference to any request for a transcript in a civil matter. When the appeal is docketed in the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court*, it stands submitted without further briefs or oral argument unless the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* otherwise orders.



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Sec. 83. NRS 34.710 is hereby amended to read as follows:

34.710 1. A district court shall not consider any pretrial petition for habeas corpus:

(a) Based on alleged lack of probable cause or otherwise challenging the court's right or jurisdiction to proceed to the trial of a criminal charge unless a petition is filed in accordance with NRS 34.700.

(b) Based on a ground which the petitioner could have included as a ground for relief in any prior petition for habeas corpus or other petition for extraordinary relief.

2. *If an application is made to the Court of Appeals for a writ of habeas corpus and the application is entertained by the Court of Appeals, and thereafter denied, the person making the application may not submit thereafter an application to the district judge of the district in which the applicant is held in custody, nor to any other district judge in any other judicial district of the State, premised upon the illegality of the same charge upon which the applicant is held in custody.*

3. If an application is made to a justice of the Supreme Court for a writ of habeas corpus and the application is entertained by the justice or the Supreme Court, and thereafter denied, the person making the application may not submit thereafter an application to the *Court of Appeals, the* district judge of the district in which the applicant is held in custody, nor to any other district judge in any other judicial district of the State, premised upon the illegality of the same charge upon which the applicant is held in custody.

Sec. 84. NRS 34.726 is hereby amended to read as follows:

34.726 1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the *appellate court of competent jurisdiction pursuant to the rules fixed by the* Supreme Court *pursuant to Section 4 of Article 6 of the Nevada Constitution* issues its remittitur. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:

(a) That the delay is not the fault of the petitioner; and

(b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

2. The execution of a sentence must not be stayed for the period provided in subsection 1 solely because a petition may be filed within that period. A stay of sentence must not be granted unless:

(a) A petition is actually filed; and

(b) The petitioner establishes a compelling basis for the stay.



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Sec. 85. NRS 34.735 is hereby amended to read as follows:

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

Case No.

Dept. No.

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

.....
Petitioner,

v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

.....
Respondent.

INSTRUCTIONS:

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

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

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

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

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



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

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

PETITION

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

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

3. Date of judgment of conviction:

4. Case number:

5. (a) Length of sentence:

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

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes No If "yes," list crime, case number and sentence being served at this time:

7. Nature of offense involved in conviction being challenged:

8. What was your plea? (check one)

(a) Not guilty

(b) Guilty

(c) Guilty but mentally ill

(d) Nolo contendere



- 1 9. If you entered a plea of guilty or guilty but mentally ill to
2 one count of an indictment or information, and a plea of not guilty
3 to another count of an indictment or information, or if a plea of
4 guilty or guilty but mentally ill was negotiated, give details:
5
6
7 10. If you were found guilty or guilty but mentally ill after a
8 plea of not guilty, was the finding made by: (check one)
9 (a) Jury
10 (b) Judge without a jury
11 11. Did you testify at the trial? Yes No
12 12. Did you appeal from the judgment of conviction? Yes
13 No
14 13. If you did appeal, answer the following:
15 (a) Name of court:
16 (b) Case number or citation:
17 (c) Result:
18 (d) Date of result:
19 (Attach copy of order or decision, if available.)
20 14. If you did not appeal, explain briefly why you did not:
21
22
23 15. Other than a direct appeal from the judgment of conviction
24 and sentence, have you previously filed any petitions, applications
25 or motions with respect to this judgment in any court, state or
26 federal? Yes No
27 16. If your answer to No. 15 was "yes," give the following
28 information:
29 (a) (1) Name of court:
30 (2) Nature of proceeding:
31
32 (3) Grounds raised:
33
34
35 (4) Did you receive an evidentiary hearing on your petition,
36 application or motion? Yes No
37 (5) Result:
38 (6) Date of result:
39 (7) If known, citations of any written opinion or date of
40 orders entered pursuant to such result:
41
42 (b) As to any second petition, application or motion, give the
43 same information:
44 (1) Name of court:
45 (2) Nature of proceeding:



- 1 (3) Grounds raised:
2 (4) Did you receive an evidentiary hearing on your petition,
3 application or motion? Yes No
4 (5) Result:
5 (6) Date of result:
6 (7) If known, citations of any written opinion or date of
7 orders entered pursuant to such result:
8
9 (c) As to any third or subsequent additional applications or
10 motions, give the same information as above, list them on a separate
11 sheet and attach.
12 (d) Did you appeal to the highest state or federal court having
13 jurisdiction, the result or action taken on any petition, application or
14 motion?
15 (1) First petition, application or motion? Yes No
16 Citation or date of decision:
17 (2) Second petition, application or motion? Yes
18 No
19 Citation or date of decision:
20 (3) Third or subsequent petitions, applications or motions?
21 Yes No
22 Citation or date of decision:
23 (e) If you did not appeal from the adverse action on any petition,
24 application or motion, explain briefly why you did not. (You must
25 relate specific facts in response to this question. Your response may
26 be included on paper which is 8 1/2 by 11 inches attached to the
27 petition. Your response may not exceed five handwritten or
28 typewritten pages in length.)
29
30
31 17. Has any ground being raised in this petition been
32 previously presented to this or any other court by way of petition for
33 habeas corpus, motion, application or any other postconviction
34 proceeding? If so, identify:
35 (a) Which of the grounds is the same:
36
37 (b) The proceedings in which these grounds were raised:
38
39 (c) Briefly explain why you are again raising these grounds.
40 (You must relate specific facts in response to this question. Your
41 response may be included on paper which is 8 1/2 by 11 inches
42 attached to the petition. Your response may not exceed five
43 handwritten or typewritten pages in length.)
44



1 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d),
2 or listed on any additional pages you have attached, were not
3 previously presented in any other court, state or federal, list briefly
4 what grounds were not so presented, and give your reasons for not
5 presenting them. (You must relate specific facts in response to this
6 question. Your response may be included on paper which is 8 1/2 by
7 11 inches attached to the petition. Your response may not exceed
8 five handwritten or typewritten pages in length.)

9
10 19. Are you filing this petition more than 1 year following the
11 filing of the judgment of conviction or the filing of a decision on
12 direct appeal? If so, state briefly the reasons for the delay. (You
13 must relate specific facts in response to this question. Your response
14 may be included on paper which is 8 1/2 by 11 inches attached to
15 the petition. Your response may not exceed five handwritten or
16 typewritten pages in length.)

17
18 20. Do you have any petition or appeal now pending in any
19 court, either state or federal, as to the judgment under attack?
20 Yes No
21 If yes, state what court and the case number:

22
23 21. Give the name of each attorney who represented you in the
24 proceeding resulting in your conviction and on direct appeal:

25
26 22. Do you have any future sentences to serve after you
27 complete the sentence imposed by the judgment under attack?
28 Yes No
29 If yes, specify where and when it is to be served, if you know:

30
31 23. State concisely every ground on which you claim that you
32 are being held unlawfully. Summarize briefly the facts supporting
33 each ground. If necessary you may attach pages stating additional
34 grounds and facts supporting same.

35 (a) Ground one:

36
37 Supporting FACTS (Tell your story briefly without citing cases or
38 law.):

39
40
41 (b) Ground two:



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

(c) Ground three:

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

(d) Ground four:

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

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

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

.....
Signature of petitioner

.....
Address

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

.....
Attorney for petitioner

.....
Address

VERIFICATION

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

.....
Petitioner

.....
Attorney for petitioner



* S B 4 6 3 R 1 *

CERTIFICATE OF SERVICE BY MAIL

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

.....
Respondent prison or jail official

.....
Address

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

.....
District Attorney of County of Conviction

.....
Address

.....
Signature of Petitioner

Sec. 86. NRS 34.740 is hereby amended to read as follows:

34.740 The original petition must be presented promptly to a district judge , *a judge of the Court of Appeals* or a justice of the Supreme Court by the clerk of the court. The petition must be examined expeditiously by the judge or justice to whom it is assigned.

Sec. 87. NRS 34.745 is hereby amended to read as follows:

34.745 1. If a petition challenges the validity of a judgment of conviction or sentence and is the first petition filed by the petitioner, the judge or justice shall order the district attorney or the Attorney General, whichever is appropriate, to:

(a) File:

(1) A response or an answer to the petition; and

(2) If an evidentiary hearing is required pursuant to NRS 34.770, a return,

➔ within 45 days or a longer period fixed by the judge or justice; or

(b) Take other action that the judge or justice deems appropriate.

2. If a petition challenges the computation of time that the petitioner has served pursuant to a judgment of conviction, the judge or justice shall order the attorney general to:



(a) File:

(1) A response or an answer to the petition; and

(2) A return,

↪ within 45 days or a longer period fixed by the judge or justice.

(b) Take other action that the judge or justice deems appropriate.

3. An order entered pursuant to subsection 1 or 2 must be in substantially the following form, with appropriate modifications if the order is entered by a *judge of the Court of Appeals or a* justice of the Supreme Court:

Case No.

Dept. No.

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

.....
Petitioner,

v.

ORDER

.....
Respondent.

Petitioner filed a petition for a writ of habeas corpus on (month) (day), (year). The court has reviewed the petition and has determined that a response would assist the court in determining whether petitioner is illegally imprisoned and restrained of petitioner's liberty. Respondent shall, within 45 days after the date of this order, answer or otherwise respond to the petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

Dated (month) (day), (year)

.....
District Judge

↪ A copy of the order must be served on the petitioner or the petitioner's counsel, the respondent, the Attorney General and the district attorney of the county in which the petitioner was convicted.

4. If the petition is a second or successive petition challenging the validity of a judgment of conviction or sentence and if it plainly



1 appears from the face of the petition or an amended petition and
2 documents and exhibits that are annexed to it, or from records of the
3 court that the petitioner is not entitled to relief based on any of the
4 grounds set forth in subsection 2 of NRS 34.810, the judge or justice
5 shall enter an order for its summary dismissal and cause the
6 petitioner to be notified of the entry of the order.

7 5. If the judge or justice relies on the records of the court in
8 entering an order pursuant to this section, those records must be
9 made a part of the record of the proceeding before entry of the
10 order.

11 **Sec. 88.** NRS 34.830 is hereby amended to read as follows:

12 34.830 1. Any order that finally disposes of a petition,
13 whether or not an evidentiary hearing was held, must contain
14 specific findings of fact and conclusions of law supporting the
15 decision of the court.

16 2. A copy of any decision or order discharging the petitioner
17 from the custody or restraint under which the petitioner is held,
18 committing the petitioner to the custody of another person,
19 dismissing the petition or denying the requested relief must be
20 served by the clerk of the court upon the petitioner and the
21 petitioner's counsel, if any, the respondent, the Attorney General
22 and the district attorney of the county in which the petitioner was
23 convicted.

24 3. Whenever a decision or order described in this section is
25 entered by the district court, the clerk of the court shall prepare a
26 notice in substantially the following form and mail a copy of the
27 notice to each person listed in subsection 2:

28
29 Case No.

30 Dept. No.

31
32 IN THE JUDICIAL DISTRICT COURT
33 OF THE STATE OF NEVADA IN AND
34 FOR THE COUNTY OF

35
36
37 Petitioner,

38
39 v.

NOTICE OF ENTRY OF
DECISION OR ORDER

40
41
42 Respondent.
43



PLEASE TAKE NOTICE that on (month) (day)
(year), the court entered a decision or order in this matter, a true and
correct copy of which is attached to this notice.

You may appeal to the *appellate court of competent jurisdiction
pursuant to the rules fixed by the* Supreme Court from the decision
or order of this court. If you wish to appeal, you must file a notice of
appeal with the clerk of this court within 33 days after the date this
notice is mailed to you. This notice was mailed on (month)
(day) (year)

Dated (month) (day) (year)

.....
Clerk of court

By

Deputy

Sec. 89. NRS 35.080 is hereby amended to read as follows:

35.080 An action under this chapter can be brought in the
Supreme Court , *the Court of Appeals* or ~~the~~ the district court of the
proper county.

Sec. 90. NRS 35.260 is hereby amended to read as follows:

35.260 Actions under this chapter commenced in the *Court of
Appeals or the* Supreme Court shall be conducted in the same
manner as if commenced in the district court, and the Clerk of the
Supreme Court shall have the same authority to issue process and to
enter orders and judgments as the clerk of the district court has in
like cases. All pleadings and the conduct of the trial shall be the
same as in the district court. If a jury is required to determine an
issue of fact, the *Court of Appeals or the Supreme* Court shall order
the question to be tried before a jury in the district court of any
county designated in such order, and that the verdict be certified to
the *Court of Appeals or to the* Supreme Court ~~H~~ , *as applicable.*

Sec. 91. NRS 35.270 is hereby amended to read as follows:

35.270 If the action is commenced in the district court, an
appeal may be taken from the final judgment by either party to the
*appellate court of competent jurisdiction pursuant to the rules
fixed by the* Supreme Court *pursuant to Section 4 of Article 6 of
the Nevada Constitution*, as in other cases; but if there is judgment
of ouster against the defendant, there shall be no stay of execution or
proceedings pending such appeal.

Sec. 92. NRS 37.170 is hereby amended to read as follows:

37.170 1. At any time after the entry of judgment, or pending
an appeal by either party from the judgment to the *appellate court
of competent jurisdiction pursuant to the rules fixed by the*
Supreme Court ~~H~~ *pursuant to Section 4 of Article 6 of the Nevada
Constitution*, whenever the plaintiff has paid into court for the
defendant the full amount of the judgment, and such further sum as



1 may be required by the court as a fund to pay any further damages
2 and costs that may be recovered in the proceedings, as well as all
3 damages that may be sustained by the defendant, if for any cause the
4 property is not finally taken for public use, the plaintiff, if already in
5 possession, may continue therein, and if not, the court shall, upon
6 motion of the plaintiff, authorize the plaintiff to take possession of
7 and use the property during the pendency of and until the final
8 conclusion of the litigation, and shall, if necessary, stay all actions
9 and proceedings against the plaintiff on account thereof. The
10 plaintiff must not be held to have abandoned or waived the right to
11 appeal from the judgment by paying into court the amount of the
12 judgment and such further sum as may be required by the court and
13 taking possession of the property pursuant to this subsection.

14 2. The defendant, who is entitled to the money paid into court
15 for the defendant upon any judgment, is entitled to demand and
16 receive that money at any time after obtaining an order therefor
17 from the court. The court or judge thereof shall, upon application
18 being made by the defendant and notice to all parties, order and
19 direct that the money so paid into court be delivered to the
20 defendant upon the defendant's filing a satisfaction of the judgment,
21 or upon the defendant's filing a receipt for the money and an
22 abandonment of all defenses to the action or proceeding, except as
23 to the amount of damages that the defendant may be entitled to if a
24 new trial is granted. A payment to a defendant pursuant to this
25 subsection shall be deemed to be an abandonment by that defendant
26 of all defenses interposed by the defendant excepting his or her
27 claim for greater compensation.

28 3. If the amount of the compensation awarded upon final
29 judgment exceeds the sum paid into court, the court shall enter
30 judgment against the plaintiff and in favor of the defendant for the
31 amount of the excess plus interest. If the amount of the
32 compensation awarded upon final judgment is less than the sum
33 paid into court and paid to the defendant, the court shall enter
34 judgment in favor of the plaintiff and against the defendant for the
35 amount of the excess plus interest.

36 **Sec. 93.** NRS 62D.500 is hereby amended to read as follows:

37 62D.500 1. Appeals from the orders of the juvenile court
38 may be taken to the *appellate court of competent jurisdiction*
39 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
40 *Section 4 of Article 6 of the Nevada Constitution* in the same
41 manner as appeals in civil cases are taken.

42 2. For the purposes of this section, a decision to deny
43 certification of a child for criminal proceedings as an adult is a final
44 judgment from which an appeal may be taken.



Sec. 94. NRS 91.280 is hereby amended to read as follows:

91.280 1. Any person aggrieved by a final order of the Administrator may obtain judicial review of the order in the District Court for the First Judicial District by filing with the court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition for review must be served upon the Administrator.

2. Upon the filing of a petition for review, unless the court orders the taking of additional evidence pursuant to subsection 5 or 6, the court has exclusive jurisdiction of the matter, and the Administrator may not modify or set aside the order, in whole or in part.

3. The filing of a petition for review under subsection 1 does not, unless specifically ordered by the court, operate as a stay of the Administrator's order, and the Administrator may enforce or ask the court to enforce the order pending the outcome of the proceedings.

4. Upon receipt of the petition for review, the Administrator shall certify and file in the court a copy of the order and the transcript or record of the evidence upon which it was based. If the order became final by operation of law under subsection 4 of NRS 91.270, the Administrator shall certify and file in court the summary order, evidence of its source and an affidavit certifying that no hearing has been held and that the order became final pursuant to that subsection.

5. If either the aggrieved party or the Administrator applies to the court for leave to submit additional evidence, and shows to the satisfaction of the court that there were reasonable grounds for failure to submit the evidence in the hearing before the Administrator or other good cause, the court may order the additional evidence to be taken by the Administrator under such conditions as the court considers proper.

6. If new evidence is ordered taken by the court, the Administrator may modify the findings and order by reason of the additional evidence and shall file in the court the additional evidence together with any modified or new findings or order.

7. The court shall review the petition based upon the original record before the Administrator as amended under subsections 5 and 6. The findings of the Administrator as to the facts, if supported by competent, material and substantive evidence, are conclusive. Based upon this review, the court may affirm, modify, enforce or set aside the order, in whole or in part.

8. The judgment of the court is subject to review by the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* **⚡** *pursuant to Section 4 of Article 6 of the Nevada Constitution.*



Sec. 95. NRS 108.2423 is hereby amended to read as follows:

108.2423 1. By entering into a surety bond given pursuant to NRS 108.2415, the principal and surety submit themselves to the jurisdiction of the court in which an action or suit is pending on a notice of lien on the property described in the surety bond, and the principal and surety irrevocably appoint the clerk of that court as their agent upon whom any papers affecting the liability on the surety bond may be served. The liability of the principal may be established by the court in the pending action. The liability of the surety may be enforced on motion without necessity of an independent action. The motion and such notice of motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the principal and surety if their addresses are known.

2. The motion described in subsection 1 must not be instituted until 30 days after:

(a) If a notice of appeal from the judgment is not filed, the giving of notice of entry of judgment in the action against the lien claimant's debtor or the giving of notice of entry of judgment in an action against the principal or the lien claimant's debtor, as the case may be; or

(b) If an appeal has been taken from the judgment, the filing of the remittitur from the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~+~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution.*

Sec. 96. NRS 122.050 is hereby amended to read as follows:

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE
(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }
County of } ss.

These presents are to authorize any minister or other person authorized to solemnize a marriage who has obtained a certificate of permission to perform marriages, any Supreme Court justice, *judge of the Court of Appeals* or district judge within this State, or justice of the peace within a township wherein the justice of the peace is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized



pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his or her deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) Wife deceased Divorced Annulled When Where And of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) Husband deceased Divorced Annulled When Where; and to certify the marriage according to law.

Witness my hand and the seal of the county, this day of the month of of the year

(Seal)

.....
Clerk

.....
Deputy clerk

Sec. 97. NRS 122.080 is hereby amended to read as follows:

122.080 1. After receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, *any judge of the Court of Appeals*, any judge of the district court, any justice of the peace in his or her township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection 3, any municipal judge if authorized pursuant to subsection 4, any commissioner of civil marriages within his or her county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his or her appointment and within a commissioner township therein, to join together as husband and wife all persons not prohibited by this chapter.

2. This section does not prohibit:

(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.



(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he or she is authorized to perform the marriage pursuant to subsection 3.

3. In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he or she does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

4. In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he or she does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.

5. Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor.

Sec. 98. NRS 122.220 is hereby amended to read as follows:

122.220 1. It is unlawful for any Supreme Court justice, *judge of the Court of Appeals*, judge of a district court, justice of the peace, municipal judge, minister or other person authorized to solemnize a marriage, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him or her a license from the county clerk as provided by law.

2. Any Supreme Court justice, *judge of the Court of Appeals*, judge of a district court, justice of the peace, municipal judge, minister or other person authorized to solemnize a marriage, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 99. NRS 125A.555 is hereby amended to read as follows:

125A.555 1. An appeal may be taken from a final order in a proceeding conducted pursuant to the provisions of NRS 125A.405 to 125A.585, inclusive, in the same manner as appeals in other civil cases are taken.

2. To the extent consistent with the Nevada Rules of Appellate Procedure, the *appellate court of competent jurisdiction pursuant to the rules fixed by the* Supreme Court *pursuant to Section 4 of*



1 *Article 6 of the Nevada Constitution* shall expedite an appeal
2 brought pursuant to this section.

3 3. Unless the court enters a temporary emergency order
4 pursuant to NRS 125A.335, the enforcing court may not stay an
5 order enforcing a child custody determination pending appeal.

6 **Sec. 100.** NRS 127.180 is hereby amended to read as follows:

7 127.180 Any person against whom any order, judgment or
8 decree is made or who is affected thereby may appeal to the
9 *appellate court of competent jurisdiction pursuant to the rules*
10 *fixed by the Supreme Court pursuant to Section 4 of Article 6 of*
11 *the Nevada Constitution* from any order, judgment or decree of the
12 district court made under the provisions of this chapter, in the same
13 manner as in other civil proceedings.

14 **Sec. 101.** NRS 155.190 is hereby amended to read as follows:

15 155.190 1. Except as otherwise provided in subsection 2, in
16 addition to any order from which an appeal is expressly permitted
17 by this title, an appeal may be taken to the *appellate court of*
18 *competent jurisdiction pursuant to the rules fixed by the* Supreme
19 *Court pursuant to Section 4 of Article 6 of the Nevada*
20 *Constitution* within 30 days after the notice of entry of an order:

21 (a) Granting or revoking letters testamentary or letters of
22 administration.

23 (b) Admitting a will to probate or revoking the probate thereof.

24 (c) Setting aside an estate claimed not to exceed \$100,000 in
25 value.

26 (d) Setting apart property as a homestead, or claimed to be
27 exempt from execution.

28 (e) Granting or modifying a family allowance.

29 (f) Directing or authorizing the sale or conveyance or
30 confirming the sale of property.

31 (g) Settling an account of a personal representative or trustee.

32 (h) Instructing or appointing a trustee.

33 (i) Instructing or directing a personal representative.

34 (j) Directing or allowing the payment of a debt, claim, devise or
35 attorney's fee.

36 (k) Determining heirship or the persons to whom distribution
37 must be made or trust property must pass.

38 (l) Distributing property.

39 (m) Refusing to make any order mentioned in this section.

40 (n) Making any decision wherein the amount in controversy
41 equals or exceeds, exclusive of costs, \$10,000.

42 (o) Granting or denying a motion to enforce the liability of a
43 surety filed pursuant to NRS 142.035.

44 (p) Granting an order for conveyance or transfer pursuant to
45 NRS 148.410.



2. If a party timely files in the district court any of the following motions under the Nevada Rules of Civil Procedure, the time to file a notice of appeal pursuant to this section runs for all parties from entry of an order disposing of the last such remaining motion, and the notice of appeal must be filed not later than 30 days after the date of service of written notice of entry of that order:

(a) A motion for judgment under Rule 50(b);

(b) A motion under Rule 52(b) to amend or make additional findings of fact;

(c) A motion under Rule 59 to alter or amend the judgment; or

(d) A motion for a new trial under Rule 59.

Sec. 102. NRS 155.210 is hereby amended to read as follows:

155.210 1. Upon an appeal, the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* may reverse, affirm or modify the order appealed from, and as to any or all of the parties, and order a remittitur as in other cases, and may order costs to be paid by any party to the proceeding, or out of the estate, as justice may require.

2. Execution for costs may issue out of the district court.

Sec. 103. NRS 159.325 is hereby amended to read as follows:

159.325 In addition to any order from which an appeal is expressly authorized pursuant to this chapter, an appeal may be taken to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* within 30 days after its notice of entry from an order:

1. Granting or revoking letters of guardianship.

2. Directing or authorizing the sale or conveyance, or confirming the sale, of property of the estate of a ward.

3. Settling an account.

4. Ordering or authorizing a guardian to act pursuant to NRS 159.113.

5. Ordering or authorizing the payment of a debt, claim, devise, guardian's fees or attorney's fees.

6. Determining ownership interests in property.

7. Granting or denying a petition to enforce the liability of a surety.

8. Granting or denying a petition for modification or termination of a guardianship.

9. Granting or denying a petition for removal of a guardian or appointment of a successor guardian.

Sec. 104. NRS 164.015 is hereby amended to read as follows:

164.015 1. The court has exclusive jurisdiction of proceedings initiated by the petition of an interested person



1 concerning the internal affairs of a nontestamentary trust, including
2 a revocable living trust while the settlor is still living if the court
3 determines that the settlor cannot adequately protect his or her own
4 interests or if the interested person shows that the settlor is
5 incompetent or susceptible to undue influence. Proceedings which
6 may be maintained under this section are those concerning the
7 administration and distribution of trusts, the declaration of rights
8 and the determination of other matters involving trustees and
9 beneficiaries of trusts, including petitions with respect to a
10 nontestamentary trust for any appropriate relief provided with
11 respect to a testamentary trust in NRS 153.031.

12 2. A petition under this section may be filed in conjunction
13 with a petition under NRS 164.010 or at any time after the court has
14 assumed jurisdiction under that section.

15 3. If an interested person contests the validity of a revocable
16 nontestamentary trust, the interested person is the plaintiff and the
17 trustee is the defendant. The written grounds for contesting the
18 validity of the trust constitutes a pleading and must conform with
19 any rules applicable to pleadings in a civil action.

20 4. In a proceeding pursuant to subsection 3, the competency of
21 the settlor to make the trust, the freedom of the settlor from duress,
22 menace, fraud or undue influence at the time of execution of the
23 will, the execution and attestation of the trust instrument, or any
24 other question affecting the validity of the trust is a question of fact
25 and must be tried by the court, subject to the provisions of
26 subsection 5.

27 5. A court may consolidate the cases if there is a contest of a
28 revocable nontestamentary trust and a contest relating to a will
29 executed on the same date. If a jury is demanded pursuant to NRS
30 137.020 for the contest of the will, the court may instruct the jury to
31 render an advisory opinion with respect to an issue of fact pursuant
32 to subsection 4 in the contest of the trust.

33 6. Upon the hearing, the court shall enter such order as it
34 deems appropriate. The order is final and conclusive as to all
35 matters determined and is binding in rem upon the trust estate and
36 upon the interests of all beneficiaries, vested or contingent, except
37 that appeal to the *appellate court of competent jurisdiction*
38 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
39 *Section 4 of Article 6 of the Nevada Constitution* may be taken
40 from the order within 30 days after notice of its entry by filing
41 notice of appeal with the clerk of the district court. The appellant
42 shall mail a copy of the notice to each person who has appeared of
43 record. If the proceeding was brought pursuant to subsection 3, 4 or
44 5, the court must also award costs pursuant to chapter 18 of NRS.



7. A proceeding under this section does not result in continuing supervisory proceedings. The administration of the trust must proceed expeditiously in a manner consistent with the terms of the trust, without judicial intervention or the order, approval or other action of any court, unless the jurisdiction of the court is invoked by an interested person or exercised as provided by other law.

Sec. 105. NRS 164.030 is hereby amended to read as follows:

164.030 1. Any trustee whose appointment has been confirmed, as provided in NRS 164.010, at any time thereafter may petition the court for instructions in the administration of the trust or for a construction of the trust instrument, or upon or after the filing of a final account, for the settlement and allowance thereof.

2. Upon the filing of the petition the court shall make an order fixing a time and place for hearing thereof, unless hearing has been waived in writing by the beneficiaries of the trust.

3. Unless otherwise ordered by the court, notice of the hearing must be given as follows:

(a) The clerk shall set the petition for hearing;

(b) The petitioner must give notice stating the filing of the petition and the object and time of the hearing to all persons entitled to notice as provided in NRS 155.010; and

(c) The trustee filing such petition shall cause a copy of the order to be delivered to the beneficiaries of the trust as follows:

(1) By handing the notice or copy to the beneficiary personally or to the beneficiary's guardian, or attorney of record; or

(2) By sending it by registered or certified mail with return receipt requested to such beneficiary, or the beneficiary's guardian or attorney of record, at the last known address of the addressee.

4. Upon the hearing the court shall make such order as it deems appropriate, which order is final and conclusive as to all matters thereby determined and binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, except that appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* may be taken from the order within 30 days from the entry thereof by filing notice of appeal with the clerk of the district court, who shall mail a copy of the notice to each adverse party who has appeared of record.

Sec. 106. NRS 164.033 is hereby amended to read as follows:

164.033 1. The trustee or an interested person may petition the court to enter an order:

(a) If the trustee is in possession of, or holds title to, property and the property or an interest in it is claimed by another.

(b) If the trustee has a claim to property and another holds title to or is in possession of the property.



(c) If property of the trust is subject to a claim of a creditor of the settlor of the trust.

2. The court shall not grant a petition under this section if it determines that the matter should be determined by civil action.

3. The petition must state facts showing that it is authorized under this section, the grounds of the petition, and the name and address of each person entitled to notice of the petition.

4. Upon the filing of the petition, the clerk shall set it for hearing and the petitioner shall give notice of the hearing, at least 30 days before the time set, to:

(a) All interested persons, including the Attorney General if the petition relates to a charitable trust, in the manner provided in NRS 155.010.

(b) Each person claiming an interest in, or having title to or possession of the property, and any other person whose right, title or interest in or to the property would be affected by the granting of the petition, in the manner provided in NRS 155.040.

(c) Any other person, and in the manner, directed by the court.

5. Except as otherwise provided in subsection 2, if the court is satisfied that a conveyance, transfer, delivery or other disposition should be made, the court shall enter an order directing the trustee or other person having title to or possession of the property to convey, transfer or deliver it to the person entitled thereto or granting other appropriate relief.

6. Any person aggrieved by an order entered pursuant to this section may appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* within 30 days after the notice of the entry of the order by filing a notice of appeal with the clerk of the district court. The appellant shall mail a copy of the notice to each person who has appeared of record.

Sec. 107. NRS 169.095 is hereby amended to read as follows:

169.095 "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a public offense and includes:

1. Justices of the Supreme Court;

2. *Judges of the Court of Appeals;*

3. Judges of the district courts;

~~3-1~~ 4. Justices of the peace;

~~4-1~~ 5. Municipal judges; and

~~5-1~~ 6. Others upon whom are conferred by law the powers of a justice of the peace in criminal cases.

Sec. 108. 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



1 less than 10 days before the date set for trial, file a motion to declare
2 that the defendant is mentally retarded.

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

5 (a) Stay the proceedings pending a decision on the issue of
6 mental retardation; and

7 (b) Hold a hearing within a reasonable time before the trial to
8 determine whether the defendant is mentally retarded.

9 3. The court shall order the defendant to:

10 (a) Provide evidence which demonstrates that the defendant is
11 mentally retarded not less than 30 days before the date set for a
12 hearing conducted pursuant to subsection 2; and

13 (b) Undergo an examination by an expert selected by the
14 prosecution on the issue of whether the defendant is mentally
15 retarded at least 15 days before the date set for a hearing pursuant to
16 subsection 2.

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

21 5. At a hearing conducted pursuant to subsection 2:

22 (a) The court must allow the defendant and the prosecution to
23 present evidence and conduct a cross-examination of any witness
24 concerning whether the defendant is mentally retarded; and

25 (b) The defendant has the burden of proving by a preponderance
26 of the evidence that the defendant is mentally retarded.

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

33 7. For the purposes of this section, "mentally retarded" means
34 significant subaverage general intellectual functioning which exists
35 concurrently with deficits in adaptive behavior and manifested
36 during the developmental period.

37 **Sec. 109.** NRS 175.554 is hereby amended to read as follows:

38 175.554 In cases in which the death penalty is sought:

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



- 1 2. The jury shall determine:
2 (a) Whether an aggravating circumstance or circumstances are
3 found to exist;
4 (b) Whether a mitigating circumstance or circumstances are
5 found to exist; and
6 (c) Based upon these findings, whether the defendant should be
7 sentenced to imprisonment for a definite term of 50 years, life
8 imprisonment with the possibility of parole, life imprisonment
9 without the possibility of parole or death.

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

14 4. If a jury imposes a sentence of death, the jury shall render a
15 written verdict signed by the foreman. The verdict must designate
16 the aggravating circumstance or circumstances which were found
17 beyond a reasonable doubt, and must state that there are no
18 mitigating circumstances sufficient to outweigh the aggravating
19 circumstance or circumstances found.

20 5. If a sentence of death is imposed and a prior determination
21 regarding mental retardation has not been made pursuant to NRS
22 174.098, the defendant may file a motion to set aside the penalty on
23 the grounds that the defendant is mentally retarded. If such a motion
24 is filed, the court shall conduct a hearing on that issue in the manner
25 set forth in NRS 174.098. If the court determines pursuant to such a
26 hearing that the defendant is mentally retarded, it shall set aside the
27 sentence of death and order a new penalty hearing to be conducted.
28 Either party may appeal such a determination ~~to the Supreme~~
29 ~~Court~~ pursuant to NRS 177.015.

30 **Sec. 110.** NRS 176.059 is hereby amended to read as follows:

31 176.059 1. Except as otherwise provided in subsection 2,
32 when a defendant pleads guilty or guilty but mentally ill or is found
33 guilty or guilty but mentally ill of a misdemeanor, including the
34 violation of any municipal ordinance, the justice or judge shall
35 include in the sentence the sum prescribed by the following
36 schedule as an administrative assessment and render a judgment
37 against the defendant for the assessment:
38

Fine	Assessment
\$5 to \$49	\$30
50 to 59	45
60 to 69	50
70 to 79	55
80 to 89	60
90 to 99	65



	Fine	Assessment
2	\$100 to \$199	\$75
3	200 to 299	85
4	300 to 399	95
5	400 to 499	105
6	500 to 1,000	120

7
8 If the justice or judge sentences the defendant to perform
9 community service in lieu of a fine, the justice or judge shall include
10 in the sentence the amount of the administrative assessment that
11 corresponds with the fine for which the defendant would have been
12 responsible as prescribed by the schedule in this subsection.

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

14 (a) An ordinance regulating metered parking; or

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

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

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

43 5. The money collected for administrative assessments in
44 municipal court must be paid by the clerk of the court to the city
45 treasurer on or before the fifth day of each month for the preceding



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1 month. The city treasurer shall distribute, on or before the 15th day
2 of that month, the money received in the following amounts for each
3 assessment received:

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

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

19 (c) Five dollars to the State Controller for credit to the State
20 General Fund.

21 (d) The remainder of each assessment to the State Controller for
22 credit to a special account in the State General Fund for distribution
23 as provided in subsection 8.

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

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

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

44 (c) Five dollars to the State Controller for credit to the State
45 General Fund.



(d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund for distribution as provided in subsection 8.

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

- (a) Training and education of personnel;
- (b) Acquisition of capital goods;
- (c) Management and operational studies; or
- (d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

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

(1) Thirty-six and one-half percent of the amount distributed to the Office of Court Administrator for:

- (I) The administration of the courts;
- (II) The development of a uniform system for judicial records; and
- (III) Continuing judicial education.

(2) Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

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

(4) Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.

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

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

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

(3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;

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

(5) The Advisory Council for Prosecuting Attorneys; and



(6) Programs within the Office of the Attorney General related to victims of domestic violence.

9. Any money deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6 that is not distributed or used pursuant to paragraph (b) of subsection 8 must be transferred to the uncommitted balance of the State General Fund.

10. As used in this section:

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

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

Sec. 111. 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 *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~or~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution;*

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; or

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

Sec. 112. NRS 176.486 is hereby amended to read as follows:

176.486 A district court having proper jurisdiction, *the Court of Appeals* or the Supreme Court, if it has proper jurisdiction, may stay the execution of a sentence of death when a postconviction petition for habeas corpus has been filed only after appropriate notice has been given to the appropriate respondent in the case.

Sec. 113. NRS 176.487 is hereby amended to read as follows:

176.487 When a person under a sentence of death files a proper postconviction petition for habeas corpus, a district court, *the Court of Appeals* or the Supreme Court on a subsequent appeal shall enter a stay of execution if the court finds a stay necessary for a proper consideration of the claims for relief. In making this determination, the court shall consider whether:



1 1. The petition is the first effort by the petitioner to raise
2 constitutional claims for relief after a direct appeal from a
3 conviction and the petition raises claims other than those which
4 could have been raised at trial or on direct appeal.

5 2. The petition is timely filed and jurisdictionally appropriate
6 and does not set forth conclusory claims only.

7 3. If the petition is not the first petition for postconviction
8 relief, it raises constitutional claims which are not procedurally
9 barred by laches, the law of the case, the doctrines of abuse of the
10 writ or successive petition or any other procedural default.

11 4. If the petition is a second or successive petition, it presents
12 substantial grounds upon which relief might be granted and valid
13 justification for the claims not having been presented in a prior
14 proceeding.

15 5. The petition asserts claims based upon specified facts or law
16 which, if true, would entitle the petitioner to relief.

17 6. The court cannot decide legal claims which are properly
18 raised or expeditiously hold an evidentiary hearing on factual claims
19 which are properly raised before the execution of sentence.

20 **Sec. 114.** NRS 176.491 is hereby amended to read as follows:

21 176.491 1. Upon the denial of any appeal *pursuant to*
22 *chapter 34 or 177 of NRS* to the *appellate court of competent*
23 *jurisdiction pursuant to the rules fixed by the* Supreme Court
24 pursuant to ~~{chapter 34 or 177 of NRS,}~~ *Section 4 of Article 6 of the*
25 *Nevada Constitution,* the ~~{Supreme Court}~~ *appellate court of*
26 *competent jurisdiction* shall dissolve any stay of execution
27 previously entered. No stay of such execution may be entered or
28 continued by the ~~{Supreme Court}~~ *appellate court of competent*
29 *jurisdiction* after the denial of an appeal pending the filing of a
30 petition with a federal court or a petition for a writ of certiorari with
31 the Supreme Court of the United States.

32 2. The entry of a stay of issuance of a remittitur in the
33 ~~{Supreme Court}~~ *appellate court of competent jurisdiction* does not
34 prohibit the application of or the issuance of a warrant of execution
35 by the district court in which the conviction was obtained.

36 3. To stay the execution of a sentence of death following the
37 denial of any appeal to the ~~{Supreme Court}~~ *appellate court of*
38 *competent jurisdiction* pursuant to chapter 34 or 177 of NRS, a
39 person under sentence of death must:

40 (a) Apply for and obtain a stay in the federal court in which the
41 person applies for a writ of certiorari or habeas corpus; or

42 (b) Obtain a stay of execution pursuant to NRS 176.487.

43 **Sec. 115.** NRS 176.492 is hereby amended to read as follows:

44 176.492 The respondent may file a petition with the *appellate*
45 *court of competent jurisdiction pursuant to the rules fixed by the*



Supreme Court *pursuant to Section 4 of Article 6 of the Nevada Constitution* within 10 days after the entry of a stay of execution by a district court to dissolve a stay which was improperly entered. The filing of the petition does not divest the district court of jurisdiction to hear the claims raised by the petition and the district court shall not delay consideration of the claims because of the filing of such a petition with the ~~{Supreme Court}~~ *appellate court of competent jurisdiction.*

Sec. 116. NRS 176.505 is hereby amended to read as follows:

176.505 1. When a remittitur showing the affirmation of a judgment of death has been filed with the clerk of the court from which the appeal has been taken, the court in which the conviction was obtained shall inquire into the facts, and, if no legal reasons exist prohibiting the execution of the judgment, shall make and enter an order requiring the Director of the Department of Corrections to execute the judgment at a specified time. The presence of the defendant in the court at the time the order of execution is made and entered, or the warrant is issued, is not required.

2. When an opinion, order dismissing appeal or other order upholding a sentence of death is issued by the ~~{Supreme Court}~~ *appellate court of competent jurisdiction* pursuant to chapter 34 or 177 of NRS, the court in which the sentence of death was obtained shall inquire into the facts and, if no legal reason exists prohibiting the execution of the judgment, shall make and enter an order requiring the Director of the Department of Corrections to execute the judgment during a specified week. The presence of the defendant in the court when the order of execution is made and entered, or the warrant is issued, is not required.

3. Notwithstanding the entry of a stay of issuance of a remittitur in the ~~{Supreme Court}~~ *appellate court of competent jurisdiction* following denial of appellate relief in a proceeding brought pursuant to chapter 34 or 177 of NRS, the court in which the conviction was obtained shall, upon application of the Attorney General or the district attorney of the county in which the conviction was obtained, cause another warrant to be drawn, signed by the judge and attested by the clerk under the seal of the court, and delivered to the Director of the Department of Corrections.

Sec. 117. 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 *appellate court of competent jurisdiction pursuant to the rules fixed by the* Supreme Court *pursuant to Section 4 of*



1 *Article 6 of the Nevada Constitution* from an order of the district
2 court granting a motion to dismiss, a motion for acquittal or a
3 motion in arrest of judgment, or granting or refusing a new trial.

4 (c) To the *appellate court of competent jurisdiction pursuant to*
5 *the rules fixed by the Supreme Court pursuant to Section 4 of*
6 *Article 6 of the Nevada Constitution* from a determination of the
7 district court about whether a defendant is mentally retarded that is
8 made as a result of a hearing held pursuant to NRS 174.098. If the
9 ~~{Supreme Court}~~ *appellate court of competent jurisdiction*
10 entertains the appeal, it shall enter an order staying the criminal
11 proceedings against the defendant for such time as may be required.

12 2. The State may, upon good cause shown, appeal to the
13 *appellate court of competent jurisdiction pursuant to the rules*
14 *fixed by the Supreme Court pursuant to Section 4 of Article 6 of*
15 *the Nevada Constitution* from a pretrial order of the district court
16 granting or denying a motion to suppress evidence made pursuant to
17 NRS 174.125. Notice of the appeal must be filed with the clerk of
18 the district court within 2 judicial days and with the Clerk of the
19 Supreme Court within 5 judicial days after the ruling by the district
20 court. The clerk of the district court shall notify counsel for the
21 defendant or, in the case of a defendant without counsel, the
22 defendant within 2 judicial days after the filing of the notice of
23 appeal. The ~~{Supreme Court}~~ *appellate court of competent*
24 *jurisdiction* may establish such procedures as it determines proper
25 in requiring the appellant to make a preliminary showing of the
26 propriety of the appeal and whether there may be a miscarriage of
27 justice if the appeal is not entertained. If the ~~{Supreme Court}~~
28 *appellate court of competent jurisdiction* entertains the appeal, or if
29 it otherwise appears necessary, it may enter an order staying the trial
30 for such time as may be required.

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

33 4. Except as otherwise provided in subsection 3 of NRS
34 174.035, the defendant in a criminal case shall not appeal a final
35 judgment or verdict resulting from a plea of guilty, guilty but
36 mentally ill or nolo contendere that the defendant entered into
37 voluntarily and with a full understanding of the nature of the charge
38 and the consequences of the plea, unless the appeal is based upon
39 reasonable constitutional, jurisdictional or other grounds that
40 challenge the legality of the proceedings. The ~~{Supreme Court}~~
41 *appellate court of competent jurisdiction* may establish procedures
42 to require the defendant to make a preliminary showing of the
43 propriety of the appeal.



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1 **Sec. 118.** NRS 177.025 is hereby amended to read as follows:

2 177.025 The appeal to the *appellate court of competent*
3 *jurisdiction pursuant to the rules fixed by the* Supreme Court
4 *pursuant to Section 4 of Article 6 of the Nevada Constitution* from
5 the district court can be taken on questions of law alone.

6 **Sec. 119.** NRS 177.055 is hereby amended to read as follows:

7 177.055 1. When upon a plea of not guilty or not guilty by
8 reason of insanity a judgment of death is entered, an appeal is
9 deemed automatically taken by the defendant without any action by
10 the defendant or the defendant's counsel, unless the defendant or the
11 defendant's counsel affirmatively waives the appeal within 30 days
12 after the rendition of the judgment.

13 2. Whether or not the defendant or the defendant's counsel
14 affirmatively waives the appeal, the sentence must be reviewed on
15 the record by the *appellate court of competent jurisdiction*
16 *pursuant to the rules fixed by the* Supreme Court **‡** *pursuant to*
17 *Section 4 of Article 6 of the Nevada Constitution*, which shall
18 consider, in a single proceeding, if an appeal is taken:

19 (a) Any errors enumerated by way of appeal;

20 (b) If a court determined that the defendant is not mentally
21 retarded during a hearing held pursuant to NRS 174.098, whether
22 that determination was correct;

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

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

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

29 3. The *appellate court of competent jurisdiction pursuant to*
30 *the rules fixed by the* Supreme Court **‡** *pursuant to Section 4 of*
31 *Article 6 of the Nevada Constitution*, when reviewing a death
32 sentence, may:

33 (a) Affirm the sentence of death;

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

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

38 **Sec. 120.** NRS 177.075 is hereby amended to read as follows:

39 177.075 1. Except where appeal is automatic, an appeal from
40 a district court to the *appellate court of competent jurisdiction*
41 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
42 *Section 4 of Article 6 of the Nevada Constitution* is taken by filing
43 a notice of appeal with the clerk of the district court. Bills of
44 exception and assignments of error in cases governed by this chapter
45 are abolished.



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

3. A notice of appeal must be signed:

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

(b) By the clerk if prepared by the clerk.

Sec. 121. NRS 177.115 is hereby amended to read as follows:

177.115 A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by a Justice Court, district court, *the Court of Appeals* or by the Supreme Court upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the court appealed from, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating the defendant's assets.

Sec. 122. NRS 177.145 is hereby amended to read as follows:

177.145 If application is made to a district court, *the Court of Appeals* or ~~to~~ a justice of the Supreme Court for bail pending appeal or for an extension of time for filing the record on appeal or for any other relief which might have been granted by the trial court, the application shall be upon notice and shall show that:

1. Application to the court below or a judge thereof is not practicable;

2. Application has been made and denied, with the reasons given for the denial; or

3. The action on the application did not afford the relief to which the applicant considers himself or herself to be entitled.

Sec. 123. NRS 177.165 is hereby amended to read as follows:

177.165 All appeals from a district court to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* shall be heard on the original papers and the reporter's transcript of evidence or proceedings. The form and manner of preparation of the record and of other papers filed may be prescribed by the ~~Supreme Court~~ *appellate court of competent jurisdiction*, and to the extent not otherwise so prescribed shall conform to the practice in civil cases.

Sec. 124. NRS 177.205 is hereby amended to read as follows:

177.205 The *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* may, on its own motion or on motion of the respondent, dismiss an appeal:



- 1 1. If the appeal is irregular in any substantial particular.
- 2 2. If the appellant has failed to comply with the requirements
- 3 for docketing of the record on appeal or filing briefs, unless for good
- 4 cause shown an extension is granted.

5 **Sec. 125.** NRS 177.215 is hereby amended to read as follows:

6 177.215 Unless good cause is shown for an earlier hearing, the
7 *appellate court of competent jurisdiction pursuant to the rules*
8 *fixed by the Supreme Court pursuant to Section 4 of Article 6 of*
9 *the Nevada Constitution* shall set the appeal for argument on a date
10 not less than 30 days after the expiration of the time limited for
11 filing briefs and as soon thereafter as the state of the calendar will
12 permit. Preference shall be given to appeals in criminal cases over
13 appeals in civil cases.

14 **Sec. 126.** NRS 177.245 is hereby amended to read as follows:

15 177.245 The defendant need not personally appear in the
16 ~~Supreme Court.~~ *appellate court of competent jurisdiction.*

17 **Sec. 127.** NRS 177.265 is hereby amended to read as follows:

18 177.265 The *appellate court of competent jurisdiction*
19 *pursuant to the rules fixed by the Supreme Court pursuant to*
20 *Section 4 of Article 6 of the Nevada Constitution* may reverse,
21 affirm, or modify the judgment appealed from, and may, if
22 necessary or proper, order a new trial.

23 **Sec. 128.** NRS 177.267 is hereby amended to read as follows:

24 177.267 1. An appeal to the *appellate court of competent*
25 *jurisdiction pursuant to the rules fixed by the Supreme Court*
26 *pursuant to Section 4 of Article 6 of the Nevada Constitution* from
27 a judgment of death or the review of such a judgment by that
28 ~~Court~~ *court* must be decided and an opinion rendered within 150
29 days after the ~~Court~~ *court* has received the record on appeal from
30 the clerk of the sentencing court. If an opinion is not rendered within
31 that time, the *Chief Judge of the Court of Appeals or the* Chief
32 Justice of the Supreme Court , *as applicable*, shall state on the
33 record the reasons which caused the delay and the facts supporting
34 those reasons.

35 2. Any failure of the ~~Court~~ *court* to comply with the
36 requirements of this section is not a ground for setting aside the
37 judgment of death.

38 **Sec. 129.** NRS 177.275 is hereby amended to read as follows:

39 177.275 If a judgment against the defendant is reversed,
40 without ordering a new trial, the ~~Supreme Court~~ *appellate court of*
41 *competent jurisdiction* shall direct, if the defendant is in custody,
42 that the defendant be discharged therefrom, or if admitted to bail,
43 that the defendant's bail be exonerated, or if money be deposited
44 instead of bail, that it be refunded to the defendant.



1 **Sec. 130.** NRS 177.285 is hereby amended to read as follows:
2 177.285 On a judgment of affirmance against the defendant,
3 the original judgment shall be carried into execution, as the
4 ~~{Supreme Court}~~ *appellate court of competent jurisdiction* shall
5 direct.

6 **Sec. 131.** NRS 177.305 is hereby amended to read as follows:
7 177.305 After the certificate of judgment has been remitted, the
8 ~~{Supreme Court}~~ *appellate court of competent jurisdiction* shall
9 have no further jurisdiction of the appeal or of the proceedings
10 thereon, and all orders which may be necessary to carry the
11 judgment into effect shall be made by the ~~{Court}~~ *court* to which the
12 certificate is remitted.

13 **Sec. 132.** NRS 178.488 is hereby amended to read as follows:
14 178.488 1. Bail may be allowed pending appeal or certiorari
15 unless it appears that the appeal is frivolous or taken for delay.

16 2. Pending appeal to a district court, bail may be allowed by
17 the trial justice, by the district court, or by any judge thereof, to run
18 until final termination of the proceedings in all courts.

19 3. Pending appeal or certiorari to the *appellate court of*
20 *competent jurisdiction pursuant to the rules fixed by the* Supreme
21 Court ~~{H}~~ *pursuant to Section 4 of Article 6 of the Nevada*
22 *Constitution*, bail may be allowed by the district court or ~~{by}~~
23 judge thereof, *by the Court of Appeals or any judge thereof* or by
24 the Supreme Court or ~~{by}~~ a justice thereof.

25 4. Any court or any judge or justice authorized to grant bail
26 may at any time revoke the order admitting the defendant to bail.

27 5. The court or judge by whom bail may be ordered shall
28 require such notice of the application therefor as the court or judge
29 may deem reasonable to be given to the district attorney of the
30 county in which the verdict or judgment was originally rendered.

31 **Sec. 133.** NRS 178.546 is hereby amended to read as follows:
32 178.546 1. Whenever a person is admitted to bail by the
33 *Court of Appeals, the* Supreme Court, *a judge of the Court of*
34 *Appeals* or a justice of the Supreme Court, the Clerk of the Supreme
35 Court shall record:

- 36 (a) The name of the defendant;
- 37 (b) The names of the sureties;
- 38 (c) The amount of the bond; and
- 39 (d) The case number.

40 2. When the bond is exonerated or forfeited, the Clerk of the
41 Supreme Court shall record:

- 42 (a) The date of the exoneration or forfeiture;
- 43 (b) The file number of the order declaring the forfeiture or
44 exoneration;



(c) The name of the county where the defendant was convicted or if no conviction has been had, of the county where the defendant was incarcerated; and

(d) The date of the notice to the district attorney of the appropriate county of any forfeiture of the bond.

Sec. 134. NRS 180.060 is hereby amended to read as follows:

180.060 1. The State Public Defender may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when the indigent person has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.

2. The State Public Defender shall, when designated pursuant to NRS 62D.030, 62D.100, 171.188 or 432B.420, and within the limits of available money, represent without charge each indigent person for whom the State Public Defender is appointed.

3. When representing an indigent person, the State Public Defender shall:

(a) Counsel and defend the indigent person at every stage of the proceedings, including revocation of probation or parole; and

(b) Prosecute any appeals or other remedies before or after conviction that the State Public Defender considers to be in the interests of justice.

4. In cases of postconviction proceedings and appeals arising in counties in which the office of public defender has been created pursuant to the provisions of chapter 260 of NRS, where the matter is to be presented to the *appellate court of competent jurisdiction pursuant to the rules fixed by the* Supreme Court ~~+~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution*, the State Public Defender shall prepare and present the case and the public defender of the county shall assist and cooperate with the State Public Defender.

5. The State Public Defender may contract with any county in which the office of public defender has been created to provide representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.

Sec. 135. NRS 196.030 is hereby amended to read as follows:

196.030 A person who has knowledge of the commission of treason, who conceals the crime, and does not, as soon as may be, disclose the treason to the Governor or a justice of the Supreme Court or a judge of the *Court of Appeals or the* district court, is guilty of misprision of treason which is a category C felony and shall be punished as provided in NRS 193.130.

Sec. 136. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:



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(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person; or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.



(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 137. NRS 200.481 is hereby amended to read as follows:
200.481 1. As used in this section:



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(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) A justice of the Supreme Court, *judge of the Court of Appeals*, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(d) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

(i) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(j) "Taxicab driver" means a person who operates a taxicab.

(k) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is



1 committed by strangulation, for a category C felony as provided in
2 NRS 193.130.

3 (c) If:

4 (1) The battery is committed upon an officer, provider of
5 health care, school employee, taxicab driver or transit operator who
6 was performing his or her duty or upon a sports official based on the
7 performance of his or her duties at a sporting event;

8 (2) The officer, provider of health care, school employee,
9 taxicab driver, transit operator or sports official suffers substantial
10 bodily harm or the battery is committed by strangulation; and

11 (3) The person charged knew or should have known that the
12 victim was an officer, provider of health care, school employee,
13 taxicab driver, transit operator or sports official,

14 ➔ for a category B felony by imprisonment in the state prison for a
15 minimum term of not less than 2 years and a maximum term of not
16 more than 10 years, or by a fine of not more than \$10,000, or by
17 both fine and imprisonment.

18 (d) If the battery is committed upon an officer, provider of
19 health care, school employee, taxicab driver or transit operator who
20 is performing his or her duty or upon a sports official based on the
21 performance of his or her duties at a sporting event and the person
22 charged knew or should have known that the victim was an officer,
23 provider of health care, school employee, taxicab driver, transit
24 operator or sports official, for a gross misdemeanor, except under
25 circumstances where a greater penalty is provided in this section.

26 (e) If the battery is committed with the use of a deadly weapon,
27 and:

28 (1) No substantial bodily harm to the victim results, for a
29 category B felony by imprisonment in the state prison for a
30 minimum term of not less than 2 years and a maximum term of not
31 more than 10 years, and may be further punished by a fine of not
32 more than \$10,000.

33 (2) Substantial bodily harm to the victim results or the
34 battery is committed by strangulation, for a category B felony by
35 imprisonment in the state prison for a minimum term of not less
36 than 2 years and a maximum term of not more than 15 years, and
37 may be further punished by a fine of not more than \$10,000.

38 (f) If the battery is committed by a probationer, a prisoner who
39 is in lawful custody or confinement or a parolee, without the use of
40 a deadly weapon, whether or not substantial bodily harm results and
41 whether or not the battery is committed by strangulation, for a
42 category B felony by imprisonment in the state prison for a
43 minimum term of not less than 1 year and a maximum term of not
44 more than 6 years.



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(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

Sec. 138. NRS 209.261 is hereby amended to read as follows:

209.261 1. Upon notification by the county clerk of any county in this State that a person is being held under sentence of imprisonment in the state prison, the Director shall immediately provide for the transportation of the offender from the place of confinement to an appropriate institution or facility of the Department.

2. The expense of such transportation is a charge against the Department and must be paid upon approval by the Board as other claims against the State are paid.

3. The reasonable expenses of maintaining every person sentenced to imprisonment in the state prison, after 5 days' notice to the Director, is a charge against the Department.

4. The officer in charge of transporting an offender is entitled to receive allowances for transportation and subsistence at the rates provided for state employees.

5. In all cases where an appeal is sustained by the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~§~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution*, further transportation of the offender is at the expense of the county in which the offender was convicted and at the same rate as provided in subsection 4.

Sec. 139. NRS 213.015 is hereby amended to read as follows:

213.015 1. A member of the Board who has served as a district judge, *a judge of the Court of Appeals* or ~~§~~ a justice of the Supreme Court, or any combination thereof, for at least 4 years, is entitled to compensation as a member of the Board in the amount of 2 percent of his or her annual salary as a justice of the Supreme Court for each year of service as a district judge, *a judge of the Court of Appeals* or ~~§~~ a justice of the Supreme Court, or any combination thereof. The compensation received by a justice for service on the Board must not exceed 22 percent of his or her annual salary as a justice of the Supreme Court.



2. The salaries provided for in this section must be paid out of money provided by direct legislative appropriation from the State General Fund.

Sec. 140. NRS 218D.910 is hereby amended to read as follows:

218D.910 1. The following persons are entitled to receive free of charge in any 1 calendar year any bill, resolution, daily history, daily journal or index, in the number of copies shown, upon verification of their wishes to receive the legislative measure or publication:

(a) Justices and the Clerk of the Supreme Court, one copy;

(b) *Judges of the Court of Appeals, one copy;*

(c) County clerks and district attorneys, one copy;

~~(e)~~ (d) A judge and clerk of a district court in a judicial district having one judge, one copy; and

~~(d)~~ (e) The judges and the administrator or clerk of a district court in a judicial district having more than one judge, two copies.

2. Upon approval of the committee of the Senate or the Assembly which has jurisdiction of issues relating to legislative functions, additional copies must be provided to these persons without charge, except for the cost of handling and postage as determined by the Director.

Sec. 141. NRS 218D.955 is hereby amended to read as follows:

218D.955 1. The Secretary of State shall, within 3 days after receiving them, furnish to the State Printer a copy of all acts, resolutions and memorials passed at each regular or special session.

2. The Director shall:

(a) Distribute one copy of each act as printed to each county clerk, district judge, district attorney and justice of the peace in the State.

(b) Immediately upon the adjournment of the regular or special session, collect and have printed and bound advance sheets of all acts, resolutions and memorials passed at the regular or special session.

(c) Distribute one copy of the advance sheets, without charge, to each justice of the Supreme Court, *to each judge of the Court of Appeals*, the Attorney General, the State Public Defender, and to each county clerk, district judge, district attorney, county public defender, justice of the peace, city attorney and municipal judge in the State, deliver to the Supreme Court Law Library a number of copies appropriate to secure the exchange of similar publications from other states, and establish the price at which the advance sheets must be sold to other persons.



3. The Legislative Counsel shall, immediately upon the adjournment of the regular or special session, prepare statutory tables and an index of all acts, resolutions and memorials passed at the regular or special session.

4. The State Printer, upon receipt of the statutory tables and index, shall prepare bound volumes of the Statutes of Nevada as provided in NRS 218D.960.

Sec. 142. NRS 218E.030 is hereby amended to read as follows:

218E.030 1. The Assembly, the Senate and committees, pursuant to their investigative powers, may issue subpoenas for the production of material witnesses and relevant evidence. Such subpoenas may be issued by the President of the Senate, the Speaker of the Assembly, or the chair of a committee with the concurrence of a majority of the members of the committee.

2. Except in cases of impeachment as provided by Article 7 of the Constitution of the State of Nevada, a subpoena must not be issued to:

(a) The Governor or any of the Governor's immediate staff.

(b) Any justice of the Supreme Court, *judge of the Court of Appeals* or judge of a district court.

Sec. 143. NRS 233B.150 is hereby amended to read as follows:

233B.150 An aggrieved party may obtain a review of any final judgment of the district court by appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the* Supreme Court *pursuant to Section 4 of Article 6 of the Nevada Constitution.* The appeal shall be taken as in other civil cases.

Sec. 144. NRS 239.110 is hereby amended to read as follows:

239.110 1. In addition to any other requirement of this section, the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court, a deputy clerk of a district court, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record only in accordance with a schedule for the retention and disposition of court records which is approved by the Supreme Court.

2. The Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court who destroys a court record pursuant to this section may do so only if an image of the court record has been placed on microfilm or has been saved in an electronic recordkeeping system which permits the retrieval of the information contained in the court record and the reproduction of the court record.



3. Except as otherwise prohibited by law, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the court record on microfilm or saving an image of the court record in an electronic recordkeeping system.

4. A reproduction of an image of a court record that has been placed on microfilm or saved pursuant to this section shall be deemed to be the original court record, regardless of whether the original exists.

5. A microfilmed image of a court record or an image of a court record saved in an electronic recordkeeping system pursuant to this section must be durable, accurate, complete and clear.

6. If, pursuant to this section, an image of a court record is placed on microfilm or is saved in an electronic recordkeeping system, the clerk who does so shall promptly store at least one copy of the microfilm or any tape, disc or other medium used for the storage of the saved image in a manner and place:

(a) So as to protect it reasonably from loss or damage; and

(b) As prescribed by the Supreme Court.

7. The Supreme Court may provide by rule for the destruction, without prior microfilming, of such other documents of the several courts of this State as are held in the offices of the clerks but which:

(a) No longer serve any legal, financial or administrative purpose; and

(b) Do not have any historical value.

8. The Court Administrator may request the Division to advise and assist the Supreme Court in its establishment of the rules or of a schedule for the retention and disposition of court records.

9. As used in this section, "court record" means any document, device or item, regardless of physical form or characteristic, that:

(a) Is created by, received by or comes under the jurisdiction of the Supreme Court, *the Court of Appeals* or a district court, justice court or municipal court; and

(b) Documents the organization, functions, policies, decisions, procedures, operations or any other activities of the Supreme Court, *Court of Appeals*, district court, justice court or municipal court.

Sec. 145. NRS 239C.260 is hereby amended to read as follows:

239C.260 1. In accordance with the provisions of Section 37 of Article 4 of the Nevada Constitution, the Nevada Legislature hereby establishes a plan for continuation of state and local governmental operations. The provisions set forth in this section apply only in, and must be used in accordance with, the circumstances described in subsection 2.



2. In the event that this State or a portion of this State is stricken by a catastrophic emergency of such magnitude that, in the opinion of the Governor or, in the absence of the Governor, the Lieutenant Governor, the existing provisions of the Nevada Constitution and the statutes of this State relating to the filling of vacancies in office are not able to provide for a sufficiently expedient continuity of government and temporary succession of power as a result of vacancies in office created by the catastrophic emergency, the provisions of subsections 3 to ~~10~~ 11, inclusive, apply.

3. If a vacancy occurs in the Office of Governor as a result of a catastrophic emergency and none of the successors described in NRS 223.080 are able or available to act as Governor, the Legislature shall elect a person to serve as Governor. If the Legislature is not in session at the time the vacancy occurs, the Legislature may call itself into special session to elect a person to serve as Governor.

4. If vacancies occur in more than 15 percent of the seats in either house of the Legislature as a result of a catastrophic emergency:

(a) The remaining Legislators available for duty constitute the Legislature and have full power to act in separate or joint assembly by majority vote of those present;

(b) Any requirements for a quorum applicable to the Legislature must initially be suspended and must subsequently be adjusted as vacant offices are filled pursuant to NRS 218A.260; and

(c) If the affirmative vote of a specified proportion of members of the Legislature is required for the approval of a legislative measure, the same proportion of remaining members of the Legislature is sufficient for approval of that measure.

5. If vacancies occur in more than 15 percent of the positions held by justices on the Supreme Court as a result of a catastrophic emergency, the vacancies must be filled by appointment of the Governor.

6. *If vacancies occur in more than 50 percent of the positions held by judges on the Court of Appeals as a result of a catastrophic emergency, the vacancies must be filled by appointment of the Supreme Court.*

7. If vacancies occur in more than 15 percent of the positions held by the district judges in any one judicial district as a result of a catastrophic emergency, the vacancies must be filled by appointment of the Supreme Court.

~~10~~ 8. If vacancies occur on a board of county commissioners as a result of a catastrophic emergency:



(a) The remaining members of the board available for duty constitute the board and have full power to act by majority vote of those present; and

(b) Any requirements for a quorum applicable to the board must initially be suspended and must subsequently be adjusted as vacant offices are filled.

↳ If a board of county commissioners is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the county as may be available to serve on the board have full authority to act in all matters as a board of county commissioners.

~~18-1~~ **9.** If vacancies occur on a city council as a result of a catastrophic emergency:

(a) The remaining members of the council available for duty constitute the council and have full power to act by majority vote of those present; and

(b) Any requirements for a quorum applicable to the council must initially be suspended and must subsequently be adjusted as vacant offices are filled.

↳ If a city council is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the city as may be available to serve on the council have full authority to act in all matters as a city council.

~~19-1~~ **10.** If, during or following a catastrophic emergency, a majority of the members of a legislative body described in this section determines that, for purposes of safety or to address related concerns, the legislative body should meet at a location other than the location at which the legislative body ordinarily meets, the legislative body may arrange to meet at an alternate location.

~~110-1~~ **11.** After a catastrophic emergency has taken place, the Governor or, in the absence of the Governor, the Lieutenant Governor, shall:

(a) Determine and announce publicly when conditions have normalized within this State or the portion thereof affected by the catastrophic emergency.

(b) In cooperation with the Secretary of State, develop procedures and a reasonable schedule for filling by regular election the various offices filled temporarily pursuant to this section.

~~111-1~~ **12.** As used in this section, "catastrophic emergency" means an emergency resulting from disasters caused by enemy attack, in accordance with Section 37 of Article 4 of the Nevada Constitution.

Sec. 146. NRS 281.010 is hereby amended to read as follows:

281.010 1. The following officers must be elected:

(a) A Governor.

(b) A Lieutenant Governor.



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- 1 (c) Two United States Senators.
- 2 (d) The number of members of the House of Representatives of
- 3 the United States to which this State may be entitled.
- 4 (e) The number of presidential electors to which this State may
- 5 be entitled.
- 6 (f) Five justices of the Supreme Court.
- 7 (g) *Judges of the Court of Appeals other than the initial three*
- 8 *judges.*
- 9 (h) District judges.
- 10 ~~[(h)]~~ (i) Senators and members of the Assembly.
- 11 ~~[(i)]~~ (j) A Secretary of State.
- 12 ~~[(j)]~~ (k) A State Treasurer.
- 13 ~~[(k)]~~ (l) A State Controller.
- 14 ~~[(l)]~~ (m) An Attorney General.
- 15 ~~[(m)]~~ (n) Other officers whose elections are provided for by
- 16 law.
- 17 ~~[(n)]~~ (o) For each county, and the equivalent officers for Carson
- 18 City:
 - 19 (1) One county clerk, who is ex officio clerk of the board of
 - 20 county commissioners and clerk of the district court of the county.
 - 21 (2) One sheriff.
 - 22 (3) One district attorney.
 - 23 (4) One public administrator, except where otherwise
 - 24 provided by law.
 - 25 (5) One county assessor, except where otherwise provided by
 - 26 law.
 - 27 (6) One county treasurer, except where otherwise provided
 - 28 by law.
 - 29 (7) The number of county commissioners as provided by
 - 30 law.
 - 31 (8) One county recorder, who is ex officio county auditor in
 - 32 counties in which a county comptroller has not been appointed.
 - 33 (9) Justices of the peace.
 - 34 (10) Constables, except where otherwise provided by law.
- 35 2. All officers who are not elected must be appointed.
- 36 **Sec. 147.** NRS 281.030 is hereby amended to read as follows:
- 37 281.030 1. The official oath, except in the cases specified in
- 38 NRS 218A.220, 223.030 and 224.030, shall be endorsed on the
- 39 commission or certificate of election of the officer and signed by the
- 40 officer, and shall be certified by the officer before whom the oath or
- 41 affirmation shall have been taken.
- 42 2. Every officer, whose oath of office is required to be
- 43 endorsed on the officer's commission or certificate of election, shall
- 44 take and subscribe to the oath at the time of the reception of the
- 45 commission or certificate.



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3. The oath shall be taken, and, except in the cases prescribed in NRS 218A.220, 223.030 and 224.030, may be subscribed before any justice of the Supreme Court or clerk thereof, *any judge of the Court of Appeals*, any judge of the district court or clerk thereof, a county clerk, notary public, or justice of the peace, unless otherwise directed by law.

Sec. 148. NRS 281.157 is hereby amended to read as follows:

281.157 As used in NRS 281.157 to 281.1575, inclusive, unless the context otherwise requires, "Commission" means the Commission to Review the Compensation of Constitutional Officers, Legislators, Supreme Court Justices, *Judges of the Court of Appeals*, District Judges and Elected County Officers which is created pursuant to NRS 281.1571.

Sec. 149. NRS 281.1571 is hereby amended to read as follows:

281.1571 1. There is hereby created a Commission to Review the Compensation of Constitutional Officers, Legislators, Supreme Court Justices, *Judges of the Court of Appeals*, District Judges and Elected County Officers, consisting of nine members.

2. The members must be appointed by the following persons:

- (a) One member by the Speaker of the Assembly.
- (b) One member by the Majority Leader of the Senate.
- (c) One member by the Minority Leader of the Assembly.
- (d) One member by the Minority Leader of the Senate.
- (e) Two members by the Chief Justice of the Supreme Court.
- (f) Three members by the Governor.

3. The Commission shall elect a Chair and such other officers as it deems necessary from among its members.

4. A current officer or employee of the State or any of its political subdivisions must not be appointed as a member of the Commission.

5. The members appointed by the Governor must be selected in the following manner:

- (a) Two members, one from each congressional district, who do not belong to the same political party.
- (b) One member from a list of three nominees submitted by the Nevada Association of Counties.

Sec. 150. NRS 281.1575 is hereby amended to read as follows:

281.1575 1. The Commission shall:

(a) Review the compensation paid to constitutional officers, Supreme Court justices, *judges of the Court of Appeals*, district judges and elected county officers.

(b) Review the compensation paid to the members of the Legislature during and between legislative sessions.



(c) Hold public hearings to discuss the issues and receive public comment.

(d) If it determines that changes in legislation are required, request the assistance of the Legislative Counsel in the preparation of a bill draft on or before November 15 of each even-numbered year. Upon completion of the bill draft, the Legislative Counsel shall deliver the bill draft to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.

2. In reviewing the issues of compensation required by subsection 1, the Commission shall:

(a) Compare the current salaries of persons with similar qualifications who are employed by the State of Nevada and in the public sector;

(b) Determine the minimum salary required to attract and retain experienced and competent persons; and

(c) Consider the average number of days that Legislators serve during their term, the amount of work required of Legislators when the Legislature is not in regular session, and the opportunities they have to earn additional income from outside sources.

3. The Commission may recommend that any increase in the compensation of a county officer apply retroactively if not prohibited by law.

Sec. 151. NRS 283.420 is hereby amended to read as follows:

283.420 1. An appeal from a judgment of removal may be taken to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* in the same manner as from a judgment in other criminal actions, but until such judgment is reversed the defendant shall be suspended from office.

2. Pending the appeal, the office may be filled as in case of vacancy.

Sec. 152. NRS 284.3775 is hereby amended to read as follows:

284.3775 1. Except as otherwise provided in this section, employees of the Supreme Court, *employees of the Court of Appeals*, employees in the unclassified service of the Executive Branch of the Government of the State of Nevada, or employees of the Legislative Branch of the Government of the State of Nevada who have served for 4 consecutive months or more are entitled to transfer to a position having similar duties and compensation in the classified service of the State on the same basis as employees may transfer within the classified service from a position under one appointing authority to a position under another appointing authority. The benefit conferred by this subsection includes any



1 exemption from the taking of a competitive examination, retention
2 of credits for annual and sick leave and longevity, and priority on
3 the lists of eligible persons to the extent that such privileges are
4 accorded to employees transferring within the classified service.

5 2. Except as otherwise provided in subsection 4, the benefits
6 conferred by subsection 1 do not apply to an employee in the
7 unclassified service who is the chief officer of a department or
8 division.

9 3. Except as otherwise provided in this subsection and
10 subsection 4, a person may not transfer pursuant to subsection 1 to a
11 class composed of:

12 (a) Professionally qualified persons; or

13 (b) Officers and administrators who set broad policies and
14 exercise responsibility for the execution of those policies.

15 ➔ A person may transfer to a class described in paragraph (a) or (b)
16 if that class is provided for pursuant to subsection 2 of
17 NRS 284.155.

18 4. The restrictions provided in subsections 2 and 3 do not apply
19 to an employee of the Supreme Court, *an employee of the Court of*
20 *Appeals*, an employee in the unclassified service of the Executive
21 Branch of Government or an employee of the Legislative Branch of
22 Government whose appointment to that position was immediately
23 preceded by an appointment in the classified service, except that
24 such an employee may only transfer to a position in the classified
25 service that has duties and compensation that are similar either to
26 the employee's current position or to a position the employee
27 previously held in the classified service.

28 5. An employee in the classified service of the State who is
29 granted leave without pay to accept a position in the Legislative
30 Branch of Government during a regular or special session:

31 (a) Is entitled to be restored to the employee's previous position
32 in the classified service upon the completion of the legislative
33 session without loss of seniority or benefits. Seniority must be
34 calculated as if the employee had not taken the leave.

35 (b) Is eligible to fill vacancies in positions within the classified
36 service to the extent that the employee would be eligible if the
37 employee was not on leave from the employee's position in the
38 classified service.

39 6. An employee of the Legislative Branch of the Government
40 of the State of Nevada who is employed at the conclusion of a
41 regular session of the Legislature and is eligible at that time
42 pursuant to subsection 1 to transfer to a position having similar
43 duties and compensation in the classified service of the State may
44 transfer to such a position on or before November 1 following
45 session notwithstanding the termination of the employee's



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1 employment with the Legislative Branch of Government before that
2 date. For the purposes of this section, the weekly compensation of a
3 person paid a daily salary during a legislative session is seven times
4 the daily salary.

5 **Sec. 153.** NRS 286.297 is hereby amended to read as follows:

6 286.297 The following persons are not eligible to become
7 members of the System:

8 1. Inmates of state institutions even though they may be
9 receiving compensation for services performed for the institution.

10 2. Independent contractors or persons rendering professional
11 services on a fee, retainer or contract basis.

12 3. Except as otherwise provided in NRS 286.525, persons
13 retired under the provisions of this chapter who are employed by a
14 participating public employer.

15 4. Members of boards or commissions of the State of Nevada
16 or of its political subdivisions when such boards or commissions are
17 advisory or directive and when membership thereon is not
18 compensated except for expenses incurred. Receipt of a fee for
19 attendance at official sessions of a particular board or commission
20 does not constitute compensation for the purpose of this subsection.

21 5. Substitute teachers and students who are employed by the
22 institution which they attend.

23 6. District judges, *judges of the Court of Appeals* and justices
24 of the Supreme Court first elected or appointed on or after July 1,
25 1977, who are not enrolled in the System at the time of election or
26 appointment.

27 7. Members of the professional staff of the Nevada System of
28 Higher Education who are employed on or after July 1, 1977.

29 8. Persons employed on or after July 1, 1979, under the
30 Comprehensive Employment and Training Act.

31 9. Except as otherwise provided in NRS 286.293, persons
32 assigned to intermittent or temporary positions unless the
33 assignment exceeds 6 consecutive months.

34 10. Persons employed on or after July 1, 1981, as part-time
35 guards at school crossings.

36 11. Nurses who:

37 (a) Are not full-time employees;

38 (b) Are paid an hourly wage on a daily basis;

39 (c) Do not receive the employee benefits received by other
40 employees of the same employer; and

41 (d) Do not work a regular schedule or are requested to work for
42 a shift at a time.

43 **Sec. 154.** NRS 286.421 is hereby amended to read as follows:

44 286.421 1. A public employer that elected to pay on behalf of
45 its employees the contributions required by subsection 1 of



1 NRS 286.410 before July 1, 1983, shall continue to do so, but a
2 public employer may not elect to pay those contributions on behalf
3 of its employees on or after July 1, 1983.

4 2. An employee of a public employer that did not elect to pay
5 on behalf of its employees the contributions required by subsection
6 1 of NRS 286.410 before July 1, 1983, may elect to:

7 (a) Pay the contribution required by subsection 1 of NRS
8 286.410 on the employee's own behalf; or

9 (b) Have the employee's portion of the contribution paid by the
10 employee's employer pursuant to the provisions of NRS 286.425.

11 3. Except for any person chosen by election or appointment to
12 serve in an elective office of a political subdivision or as a district
13 judge, *a judge of the Court of Appeals* or a justice of the Supreme
14 Court of this State:

15 (a) Payment of the employee's portion of the contributions
16 pursuant to subsection 1 must be:

17 (1) Made in lieu of equivalent basic salary increases or cost-
18 of-living increases, or both; or

19 (2) Counterbalanced by equivalent reductions in employees'
20 salaries.

21 (b) The average compensation from which the amount of
22 benefits payable pursuant to this chapter is determined must be
23 increased with respect to each month beginning after June 30, 1975,
24 by 50 percent of the contribution made by the public employer, and
25 must not be less than it would have been if contributions had been
26 made by the member and the public employer separately. In the case
27 of any officer or judge described in this subsection, any contribution
28 made by the public employer on the officer's or judge's behalf does
29 not affect the officer's or judge's compensation but is an added
30 special payment.

31 4. Employee contributions made by a public employer must be
32 deposited in either the Public Employees' Retirement Fund or the
33 Police and Firefighters' Retirement Fund as is appropriate. These
34 contributions must not be credited to the individual account of the
35 member and may not be withdrawn by the member upon the
36 member's termination.

37 5. The membership of an employee who became a member on
38 or after July 1, 1975, and all contributions on whose behalf were
39 made by the member's public employer must not be cancelled upon
40 the termination of the member's service.

41 6. If an employer is paying the basic contribution on behalf of
42 an employee, the total contribution rate, in lieu of the amounts
43 required by subsection 1 of NRS 286.410 and NRS 286.450, must
44 be:



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(a) The total contribution rate for employers that is actuarially determined for police officers and firefighters and for regular members, depending upon the retirement fund in which the member is participating.

(b) Except as otherwise provided in subsection 7, adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report of the immediately preceding year. The adjusted rate must be rounded to the nearest one-quarter of 1 percent.

7. The total contribution rate for employers must not be adjusted in accordance with the provisions of paragraph (b) of subsection 6 if:

(a) The existing rate is lower than the actuarially determined rate but is within one-half of 1 percent of the actuarially determined rate.

(b) The existing rate is higher than the actuarially determined rate but is within 2 percent of the actuarially determined rate. If the existing rate is more than 2 percent higher than the actuarially determined rate, the existing rate must be reduced by the amount by which it exceeds 2 percent above the actuarially determined rate.

8. For the purposes of adjusting salary increases and cost-of-living increases or of salary reduction, the total contribution must be equally divided between employer and employee.

9. Public employers other than the State of Nevada shall pay the entire employee contribution for those employees who contribute to the Police and Firefighters' Retirement Fund on and after July 1, 1981.

Sec. 155. NRS 286.6703 is hereby amended to read as follows:

286.6703 1. A person may submit a judgment, decree or order of a district court, *the Court of Appeals* or the Supreme Court of the State of Nevada relating to child support, alimony or the disposition of community property to the Executive Officer or the designee of the Executive Officer for a determination of whether the judgment, decree or order entitles an alternate payee to receive from the System all or a portion of the allowance or benefit of a member or a retired employee.

2. The judgment, decree or order submitted to the Executive Officer must be signed by a district judge, *the judges of the Court of Appeals* or by the justices of the Supreme Court and entered and certified by the clerk of the district court or the Clerk of the Supreme Court.

3. The Executive Officer or the designee of the Executive Officer shall, in accordance with rules prescribed by the Board,



determine whether the judgment, decree or order entitles the alternate payee to receive an allowance or benefit from the System. An alternate payee is entitled to receive an allowance or benefit from the System if the judgment, decree or order:

(a) Specifies clearly the names and last known mailing addresses, if any, of the member or retired employee and the alternate payee;

(b) Specifies clearly the amount, percentage or manner of determining the amount of the allowance or benefit of the member or retired employee that must be paid by the System to each alternate payee;

(c) Specifically directs the System to pay an allowance or benefit to the alternate payee;

(d) Does not require the System to provide an allowance or benefit or any option not otherwise provided under this chapter; and

(e) Does not require the payment of an allowance or benefit to an alternate payee before the retirement of a member or the distribution to or withdrawal of contributions by a member.

4. For purposes of this subsection, "alternate payee" means a spouse, former spouse, child or other dependent of a member or retired employee who, pursuant to a judgment, decree or order relating to child support, alimony or the disposition of community property, is entitled to receive all or a portion of the allowance or benefit of a member or retired member from the System.

Sec. 156. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

For the purposes of elections only, the Secretary of State shall establish designations which separately identify each office of judge of the Court of Appeals. Before any person is allowed to file a declaration of candidacy for the office of judge of the Court of Appeals, the person shall designate the particular office for which he or she is declaring candidacy.

Sec. 157. NRS 293.0643 is hereby amended to read as follows:

293.0643 "Judicial officer" means any justice of the Supreme Court, *any judge of the Court of Appeals*, any judge of a district court or any justice of the peace.

Sec. 158. NRS 293.109 is hereby amended to read as follows:

293.109 "State officer" means:

1. The Governor;
2. The Lieutenant Governor;
3. The Secretary of State;
4. The State Treasurer;
5. The State Controller;
6. The Attorney General;



7. A justice of the Supreme Court;

8. *A judge of the Court of Appeals;*

9. A State Senator;

~~10.~~ 10. A State Assemblyman or Assemblywoman;

~~11.~~ 11. A regent of the University of Nevada;

~~12.~~ 12. A member of the State Board of Education; or

~~13.~~ 13. A district judge.

Sec. 159. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the second Tuesday in June of each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, *and section 156 of this act* do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 160. NRS 293.260 is hereby amended to read as follows:

293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his or her name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.

4. If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:



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(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his or her name must be placed on the ballot for the general election.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

5. Where no more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office, *the office of judge of the Court of Appeals* or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;

(b) Any nonpartisan office, other than the office of justice of the Supreme Court, *office of judge of the Court of Appeals* or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his or her name must be placed on the ballot for the general election; and

(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.

6. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

Sec. 161. NRS 293.407 is hereby amended to read as follows:

293.407 1. A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.



2. Except where the contest involves the general election for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, ~~or~~ justice of the Supreme Court ~~or~~ *or judge of the Court of Appeals*, a candidate or voter who wishes to contest an election, including election to the office of presidential elector, must, within the time prescribed in NRS 293.413, file with the clerk of the district court a written statement of contest, setting forth:

(a) The name of the contestant and that the contestant is a registered voter of the political subdivision in which the election to be contested or part of it was held;

(b) The name of the defendant;

(c) The office to which the defendant was declared elected;

(d) The particular grounds of contest and the section of Nevada Revised Statutes pursuant to which the statement is filed; and

(e) The date of the declaration of the result of the election and the body or board which canvassed the returns thereof.

3. The contestant shall verify the statement of contest in the manner provided for the verification of pleadings in civil actions.

4. All material regarding a contest filed by a contestant with the clerk of the district court must be filed in triplicate.

Sec. 162. NRS 293.430 is hereby amended to read as follows:

293.430 1. If the contest is of the general election for the office of Governor, Lieutenant Governor, ~~or~~ justice of the Supreme Court ~~or~~ *or judge of the Court of Appeals*, the statement of contest and all depositions, ballots and other documents relating to the contest must be filed with the Secretary of State within the time provided for filing statements of contests with the clerk of the district court.

2. Until the contest is decided, the candidate who received the highest number of votes for the office in the contested election must be seated and commence the duties of the office.

3. The Secretary of State shall deliver the statement of contest and all other papers and documents to the speaker of the assembly on the day of the organization of the Legislature.

4. A joint session of both houses must be convened as soon thereafter as the business of both houses permits, but not later than 10 days after receipt of statement of contest.

5. If, before the contest has been decided, a contestant gives written notice to the Secretary of State that the contestant wishes to withdraw his or her statement of contest, the Secretary of State shall dismiss the contest.

Sec. 163. NRS 309.220 is hereby amended to read as follows:

309.220 1. Upon the hearing of such petition, the court shall examine all the proceedings sought to be confirmed and may ratify,



1 approve and confirm the petition or any part thereof, and when an
2 apportionment of benefits is examined, all objections thereto,
3 including those made at the hearing before the board, must be set up
4 in the answer and heard by the court.

5 2. The court shall disregard every error, irregularity or
6 omission which does not affect substantial rights of any party, and if
7 the court finds that the apportionment is, as to any substantial
8 matter, erroneous or unjust, the apportionment must not be returned
9 to the board, but the court shall proceed to correct the apportionment
10 so as to conform to this chapter and the rights of all parties in the
11 premises, and the final judgment may approve and confirm the
12 proceedings in whole or in part.

13 3. A certified copy of the final judgment must be filed in the
14 Office of the State Engineer and recorded in the office of the
15 recorder of the county or counties in which any of the lands within
16 the district are situated. In case of the approval of the organization
17 of the district and the disapproval of the proceedings for issuing
18 bonds, the district may again undertake proceedings for the issuance
19 of bonds and have the bonds confirmed as provided in this section.

20 4. The cost of the proceedings in court may be allowed and
21 apportioned among the parties thereto in the discretion of the court.

22 5. Any person aggrieved at any decree of confirmation entered
23 by the district court may move for a new trial as provided by the
24 Nevada Rules of Civil Procedure and may, within 30 days after the
25 entry of the decree of confirmation, appeal to the *appellate court of*
26 *competent jurisdiction pursuant to the rules fixed by the* Supreme
27 Court *H pursuant to Section 4 of Article 6 of the Nevada*
28 *Constitution*, and all proceedings in the nature of appeals or
29 rehearings may be had as in any ordinary civil action, except as
30 otherwise provided in this section.

31 **Sec. 164.** NRS 325.060 is hereby amended to read as follows:

32 325.060 1. Should two or more persons, companies,
33 corporations or associations claim adversely the title to any lot, lots
34 or parcels of land within the boundaries of such city or town, the
35 corporate authorities, the judge of the district court having entered
36 the same, or any one of his or her successors in office shall,
37 immediately after the time for filing claims has expired, either by
38 force of NRS 325.050 or 325.140, certify and transmit all
39 proceedings and papers had or being before them, him or her in the
40 premises to the district court of the county in which the lot, lots or
41 parcels of land are situated.

42 2. Upon the receipt of the papers and proceedings, properly
43 certified, and upon payment of court fees and costs, the clerk of the
44 district court shall:



(a) Enter the case upon the register of actions. The name of the claimant whose claim was first filed with and by the corporate authorities or the judge of the district court shall be entered upon the register of actions as plaintiff, and the name or names of the other claimant or claimants who filed adversely shall be entered as defendant or defendants.

(b) Serve upon each claimant or his or her agent or attorney a written notice that the claim of such claimant is contested. The notice shall specify the particular lot, block or parcel so contested and the name of the adverse claimant.

➤ Thereafter, the cause shall proceed in all respects as in cases originally brought in the district court.

3. Any party in the action deeming himself or herself aggrieved by the determination or judgment of the district court may appeal therefrom to the ~~{Supreme Court,}~~ *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution*, as in other cases.

4. Upon the final determination of the contest, the clerk of the district court or the clerk of the supreme court, as the case may be, forthwith shall certify the decision to the corporate authorities or the judge of the district court. Upon receipt of the decision, duly certified, the corporate authorities or the judge of the district court shall, as in other cases, make out, execute and deliver to the party or parties in whose favor the decision is made a conveyance in fee simple for the lot, lots or parcels of land awarded in the decision.

Sec. 165. NRS 331.140 is hereby amended to read as follows:

331.140 1. The Administrator shall take proper care to prevent any unlawful activity on or damage to any state property under the supervision and control of the Administrator, and to protect the safety of any persons on that property.

2. The Director of the Department of Public Safety shall appoint to the Capitol Police Division of that Department such personnel as may be necessary to assist the Administrator and the Buildings and Grounds Section in the enforcement of subsection 1. The salaries and expenses of the personnel appointed pursuant to this subsection must, within the limits of legislative authorization, be paid out of the Buildings and Grounds Operating Fund.

3. Personnel of the Capitol Police Division who are assigned to protect the safety of the justices of the Supreme Court *and the judges of the Court of Appeals* have the authority to provide any necessary security services, at the request of the Court Administrator, to the justices of the Supreme Court *and the judges of the Court of Appeals* while the justices *or judges* are performing work duties at any location in this State. No money may be



1 expended from the Buildings and Grounds Operating Fund for such
2 security services unless the money has been specifically
3 appropriated for such a purpose.

4 **Sec. 166.** NRS 345.010 is hereby amended to read as follows:

5 345.010 Upon publication of the Statutes of Nevada, the
6 Director of the Legislative Counsel Bureau shall distribute them
7 without charge as follows:

8 1. To each of the judges of the District Court of the United
9 States for the District of Nevada, one copy.

10 2. To the Supreme Court Law Library, two copies.

11 3. To each justice of the Supreme Court, Clerk of the Supreme
12 Court, *judge of the Court of Appeals*, district judge, county clerk,
13 district attorney, justice of the peace and municipal judge in this
14 State, one copy.

15 4. To each public library in this State, one copy.

16 5. To each library in the Nevada System of Higher Education,
17 one copy.

18 6. To the Nevada Historical Society, one copy.

19 7. Upon request, to any state, county or municipal officer.

20 **Sec. 167.** NRS 345.020 is hereby amended to read as follows:

21 345.020 Upon receipt of copies of each volume of Nevada
22 Reports from the State Printer, the Director of the Legislative
23 Counsel Bureau shall distribute them without charge as follows:

24 1. To each of the judges of the District Court of the United
25 States for the District of Nevada, one copy.

26 2. The Supreme Court Law Library, two copies.

27 3. To each justice of the Supreme Court, Clerk of the Supreme
28 Court, *judge of the Court of Appeals*, district judge, district
29 attorney, county clerk, justice of the peace and municipal judge in
30 this State, one copy.

31 4. To each public library in this State, one copy.

32 5. To each library in the Nevada System of Higher Education,
33 one copy.

34 6. To the Nevada Historical Society, one copy.

35 7. Upon request, to any state, county or municipal officer.

36 **Sec. 168.** NRS 345.040 is hereby amended to read as follows:

37 345.040 1. The Legislative Counsel Bureau shall stamp or
38 mark all books to be distributed, as provided by law, to Supreme
39 Court justices, *judges of the Court of Appeals*, district judges, state,
40 county and municipal officers, justices of the peace and municipal
41 judges as follows: "State property, to be turned over to your
42 successor in office."

43 2. Each person who receives a book so distributed shall retain
44 the book for the use of the person's office and deliver all books so



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1 received to the person's successor in office, who shall give his or
2 her receipt therefor.

3 3. The Legislative Counsel Bureau shall keep proper records
4 showing to whom the books were issued and the location of the
5 books so distributed, and shall file the records in its office. Except
6 as otherwise provided in NRS 3.160, the Legislative Counsel
7 Bureau shall not supply a missing or second volume other than at
8 the price established pursuant to NRS 345.050.

9 **Sec. 169.** NRS 422.279 is hereby amended to read as follows:

10 422.279 1. Before the date set by the court for hearing, an
11 application may be made to the court by motion, with notice to the
12 opposing party and an opportunity for that party to respond, for
13 leave to present additional evidence. If it is shown to the satisfaction
14 of the court that the additional evidence is material and that there
15 were good reasons for failure to present it in the proceeding before
16 the Department, the court may order that the additional evidence be
17 taken before the Department upon conditions determined by the
18 court. The Department may modify its findings and decision by
19 reason of the additional evidence and shall file that evidence and
20 any modifications, new findings or decisions with the reviewing
21 court.

22 2. The review must be conducted by the court without a jury
23 and must be confined to the record. In cases of alleged irregularities
24 in procedure before the Department, not shown in the record, proof
25 thereon may be taken in the court. The court, at the request of either
26 party, shall hear oral argument and receive written briefs.

27 3. The court shall not substitute its judgment for that of the
28 Department as to the weight of the evidence on questions of fact.
29 The court may affirm the decision of the Department or remand the
30 case for further proceedings. The court may reverse the decision and
31 remand the case to the Department for further proceedings if
32 substantial rights of the appellant have been prejudiced because the
33 Department's findings, inferences, conclusions or decisions are:

34 (a) In violation of constitutional, regulatory or statutory
35 provisions;


36 (b) In excess of the statutory authority of the Department;

37 (c) Made upon unlawful procedure;

38 (d) Affected by other error of law;

39 (e) Clearly erroneous in view of the reliable, probative and
40 substantial evidence on the whole record; or

41 (f) Arbitrary or capricious or characterized by abuse of
42 discretion or clearly unwarranted exercise of discretion.

43 4. An aggrieved party may obtain review of any final judgment
44 of the district court by appeal to the *appellate court of competent*
45 *jurisdiction pursuant to the rules fixed by the* Supreme Court 



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pursuant to Section 4 of Article 6 of the Nevada Constitution. The appeal must be taken in the manner provided for civil cases.

Sec. 170. NRS 422A.300 is hereby amended to read as follows:

422A.300 1. Before the date set by the court for hearing, an application may be made to the court by motion, with notice to the opposing party and an opportunity for that party to respond, for leave to present additional evidence. If it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the Department, the court may order that the additional evidence be taken before the Department upon conditions determined by the court. The Department may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

2. The review must be conducted by the court without a jury and must be confined to the record. In cases of alleged irregularities in procedure before the Department, not shown in the record, proof thereon may be taken in the court. The court, at the request of either party, shall hear oral argument and receive written briefs.

3. The court shall not substitute its judgment for that of the Department as to the weight of the evidence on questions of fact. The court may affirm the decision of the Department or remand the case for further proceedings. The court may reverse the decision and remand the case to the Department for further proceedings if substantial rights of the appellant have been prejudiced because the Department's findings, inferences, conclusions or decisions are:

(a) In violation of constitutional, regulatory or statutory provisions;

(b) In excess of the statutory authority of the Department;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

4. An aggrieved party may obtain review of any final judgment of the district court by appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~H~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution.* The appeal must be taken in the manner provided for civil cases.

Sec. 171. NRS 428.093 is hereby amended to read as follows:

428.093 1. A person who is denied by a county medical or financial assistance pursuant to this chapter may appeal that denial



1 in accordance with procedures adopted by the county. Each county
2 shall adopt procedures for appeals which comply with the
3 requirements of this section.

4 2. The procedures must provide for adequate notice to the
5 person denied assistance and the opportunity for a hearing. Any
6 employee or other representative of the county who investigated or
7 made the initial decision to deny assistance shall not participate in
8 any decision made pursuant to the hearing.

9 3. A decision adverse to the person denied assistance must be
10 in writing and set forth the factual basis for the decision and the
11 applicable regulation. A copy of the decision must be served
12 personally or by certified mail upon each party and the
13 representative of each party.

14 4. A person aggrieved by the final decision of the county may,
15 within 30 days after the date on which the written notice of the
16 decision is served or mailed, petition the district court where the
17 person resides to review the decision. The court shall review
18 the decision on the record of the case before the county, a copy of
19 which must be certified as correct by the county and filed with the
20 court as part of its answer to the petition.

21 5. Before the date set by the court for a hearing, an application
22 may be made to the court by motion, with notice to the opposing
23 party and an opportunity for that party to respond, for leave to
24 present additional evidence. If it is shown to the satisfaction of the
25 court that the additional evidence is material and that there were
26 good reasons for failure to present it in the proceeding before the
27 county, the court may order that the additional evidence be taken
28 before the county upon conditions determined by the court. The
29 county may modify its findings and decisions by reason of the
30 additional evidence and shall file that evidence and any
31 modifications, new findings or decisions with the reviewing court.

32 6. The review must be conducted by the court without a jury
33 and must be confined to the record. The court, at the request of a
34 party, may hear oral arguments and receive written briefs.

35 7. The court shall not substitute its judgment for that of the
36 county as to the weight of the evidence on questions of fact. The
37 court may affirm the decision of the county or remand the case for
38 further proceedings. The court may reverse the decision and remand
39 the case to the county for further proceedings if it determines that
40 substantial rights of the appellant have been prejudiced because the
41 county's findings, inferences, conclusions or decisions are:

42 (a) In violation of constitutional, statutory or regulatory
43 provisions;

44 (b) In excess of the statutory authority of the county;

45 (c) Made in accordance with an unlawful procedure;



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- 1 (d) Affected by other errors of law;
- 2 (e) Clearly erroneous in view of the reliable, probative and
- 3 substantial evidence on the whole record; or
- 4 (f) Arbitrary and capricious.

5 8. An aggrieved party may appeal any final judgment of the
6 district court to the *appellate court of competent jurisdiction*
7 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
8 *Section 4 of Article 6 of the Nevada Constitution* in the same
9 manner as a civil case.

10 **Sec. 172.** NRS 442.2555 is hereby amended to read as
11 follows:

12 442.2555 1. If the order is denied pursuant to NRS 442.255,
13 the court shall, upon request by the minor if it appears that she is
14 unable to employ counsel, appoint an attorney to represent her in the
15 preparation of a petition, a hearing on the merits of the petition, and
16 on an appeal, if necessary. The compensation and expenses of the
17 attorney are a charge against the county as provided in the following
18 schedule:

19 (a) For consultation, research and other time reasonably spent on
20 the matter, except court appearances, \$20 per hour.

21 (b) For court appearances, \$30 per hour.

22 2. The petition must set forth the initials of the minor, the age
23 of the minor, the estimated number of weeks elapsed from the
24 probable time of conception, and whether maturity, emancipation,
25 notification detrimental to the minor's best interests or a
26 combination thereof are relied upon in avoidance of the notification
27 required by NRS 442.255. The petition must be initialed by the
28 minor.

29 3. A hearing on the merits of the petition, on the record, must
30 be held as soon as possible and within 5 judicial days after the filing
31 of the petition. At the hearing the court shall hear evidence relating
32 to:

33 (a) The minor's emotional development, maturity, intellect and
34 understanding;

35 (b) The minor's degree of financial independence and degree of
36 emancipation from parental authority;

37 (c) The minor's best interests relative to parental involvement in
38 the decision whether to undergo an abortion; and

39 (d) Any other evidence that the court may find useful in
40 determining whether the minor is entitled to avoid parental
41 notification.

42 4. In the decree, the court shall, for good cause:

43 (a) Grant the petition, and give judicial authorization to permit a
44 physician to perform an abortion without the notification required in
45 NRS 442.255; or



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(b) Deny the petition, setting forth the grounds on which the petition is denied.

5. An appeal from an order issued under subsection 4 may be taken to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court* ~~§~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution*, which shall suspend the Nevada Rules of Appellate Procedure pursuant to NRAP 2 to provide for an expedited appeal. The notice of intent to appeal must be given within 1 judicial day after the issuance of the order. The record on appeal must be perfected within 5 judicial days after the filing of the notice of appeal and transmitted to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court*. The ~~§Court§~~ *appellate court of competent jurisdiction*, shall, by court order or rule, provide for a confidential and expedited appellate review of cases appealed under this section.

Sec. 173. NRS 463.318 is hereby amended to read as follows:

463.318 1. Any party aggrieved by the final decision in the district court after a review of the decision and order of the Commission may appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* in the manner and within the time provided by law for appeals in civil cases. The ~~§Supreme Court§~~ *appellate court of competent jurisdiction* shall follow the same procedure thereafter as in appeals in civil actions, and may affirm, reverse or modify the decision as the record and law warrant.

2. The judicial review by the district *court* and ~~§Supreme Courts§~~ *the appellate court of competent jurisdiction* afforded in this chapter is the exclusive method of review of the Commission's actions, decisions and orders in disciplinary hearings held pursuant to NRS 463.310 to 463.3145, inclusive. Judicial review is not available for actions, decisions and orders of the Commission relating to the denial of a license or to limited or conditional licenses. Extraordinary common-law writs or equitable proceedings are available except where statutory judicial review is made exclusive or is precluded, or the use of those writs or proceedings is precluded by specific statute.

Sec. 174. NRS 463.3668 is hereby amended to read as follows:

463.3668 1. Any party aggrieved by the final decision in the district court after a review of the decision and order of the Board or the hearing examiner may appeal to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* in the manner and within the time provided by law for



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1 appeals in civil cases. The ~~Supreme Court~~ *appellate court of*
2 *competent jurisdiction* shall follow the same procedure thereafter as
3 in appeals in civil actions, and may affirm, reverse or modify the
4 decision as the record and law warrant.

5 2. The judicial review by the district *court* and ~~Supreme~~
6 ~~Courts~~ *the appellate court of competent jurisdiction* afforded in
7 this chapter is the exclusive method of review of any actions,
8 decisions and orders in hearings held pursuant to NRS 463.361 to
9 463.366, inclusive. Judicial review is not available for extraordinary
10 common-law writs or equitable proceedings.

11 3. The party requesting judicial review shall bear all of the
12 costs of transcribing the proceedings before the Board or the hearing
13 examiner and of transmitting the record on review.

14 **Sec. 175.** NRS 463A.230 is hereby amended to read as
15 follows:

16 463A.230 Any party aggrieved by the final decision in the
17 district court after a review of the Commission decision and order
18 may appeal to the *appellate court of competent jurisdiction*
19 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
20 *Section 4 of Article 6 of the Nevada Constitution* in the manner and
21 within the time provided by law for appeals in civil cases. The
22 ~~Supreme Court~~ *appellate court of competent jurisdiction* shall
23 follow the same procedure thereafter as in appeals in civil actions,
24 and may affirm, reverse or modify the decision as the record and
25 law shall warrant.

26 **Sec. 176.** NRS 482.374 is hereby amended to read as follows:

27 482.374 1. Except as otherwise provided in a special act, the
28 Department shall furnish to each State Senator, State Assemblyman
29 and State Assemblywoman a special license plate or plates showing
30 on the face thereof, in the case of the Senators, "State Senator,"
31 together with the designated number showing the seniority of the
32 Senator in the Senate, and, in the case of the members of the
33 Assembly, "State Assemblyman" or "State Assemblywoman," as
34 appropriate, together with the designated number showing the
35 seniority of that member in the Assembly. If two or more
36 Legislators have the same seniority, the designated number given to
37 them must be determined according to the alphabetical order of their
38 last names, except that numbers drawn by lot by Legislators having
39 the same seniority before January 1, 1971, must be maintained in the
40 same sequence.

41 2. The Department shall furnish to each justice of the Supreme
42 Court a special license plate or plates showing on the face thereof
43 "Supreme Court Justice," together with the designated number
44 showing the seniority of the justice. If two or more justices have the



1 same seniority, the designated number given to them must be
2 determined according to the alphabetical order of their last names.

3 3. *The Department shall furnish to each judge of the Court of*
4 *Appeals a special license plate or plates showing on thereof*
5 *"Court of Appeals Judge," together with the designated number*
6 *showing the seniority of the judge. If two or more judges have the*
7 *same seniority, the designated number given to them must be*
8 *determined according to the alphabetical order of their last names.*

9 4. The Department shall issue the license plates described in
10 this section and a duplicate set of those plates to the State
11 Legislators , *judges of the Court of Appeals* and justices of the
12 Supreme Court upon payment of the license fees set forth in
13 NRS 482.3745.

14 **Sec. 177.** NRS 533.200 is hereby amended to read as follows:

15 533.200 Appeals from such decree may be taken to the
16 *appellate court of competent jurisdiction pursuant to the rules*
17 *fixed by the Supreme Court pursuant to Section 4 of Article 6 of*
18 *the Nevada Constitution* by the State Engineer or any party in
19 interest in the same manner and with the same effect as in civil
20 cases, except as to the following matters. Notice of appeal shall be
21 served upon the attorneys of record for claimants who have filed
22 exceptions or objections to the final order of determination of the
23 State Engineer as provided in NRS 533.170, and all claimants or
24 water users who have not filed exceptions or objections to the final
25 order of determination or appeared in the cause by an attorney shall
26 be served with a copy of notice of appeal by the service of a copy
27 thereof on the Attorney General as their process agent.

28 **Sec. 178.** NRS 533.220 is hereby amended to read as follows:

29 533.220 1. From and after the filing of the order of
30 determination in the district court, the distribution of water by the
31 State Engineer or by any of the State Engineer's assistants or by the
32 water commissioners or their assistants shall, at all times, be under
33 the supervision and control of the district court. Such officers and
34 each of them shall, at all times, be deemed to be officers of the court
35 in distributing water under and pursuant to the order of
36 determination or under and pursuant to the decree of the court.

37 2. Upon the neglect or refusal of any claimant to the use of
38 water as provided in this chapter to carry out or abide by an order or
39 decision of the State Engineer acting as an officer of the court, the
40 State Engineer may petition the district court having jurisdiction of
41 the matter for a review of such order and cause to be issued thereon
42 an order to show cause why the order and decision should not be
43 complied with.



3. The order to show cause shall be personally served on the claimant or claimants complained of, who shall appear and show cause on the day fixed in the court's order so to do.

4. The hearing on the petition and order to show cause shall be informal and summary in character, with full opportunity afforded each party to present his or her case.

5. Appeals from the judgment may be taken to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution* in like manner as appeals in other civil cases; but notice of appeal must be served and filed within 40 days from the entry of judgment.

Sec. 179. NRS 533.310 is hereby amended to read as follows:

533.310 1. On any stream in this state on which the water rights have been adjudicated and determined and the final decree therefor entered, as between all persons who claimed the right to the use of the waters of such stream, in a suit brought in the district court having jurisdiction of such stream and in which suit the adjudication and determination was not had in the manner provided in NRS 533.090 to 533.265, inclusive, and thereafter one or more of the parties as users of such adjudicated and determined rights or their successors in interest desire that the State Engineer take charge of the diversions and distribution of such rights and administer them in conformity with the final decree of the court, they may petition the district court which entered the decree requesting such administration.

2. Upon the filing of such petition, the district court shall direct that notice of the filing of the petition shall be given to each water user or claimant to a water right listed in the final decree. The notice shall be an order to show cause on the day fixed in the order by the court, which day shall not be less than 10 days nor more than 25 days from and after the date of issuance thereof, and which order shall direct the person or persons therein named to attend before the court on that day and show cause, if any they or each of them may have, why the petition should not be granted. The court shall designate the form and direct the preparation of the order or orders to show cause and by its order direct the manner, mode and the payment of the cost of the service thereof.

3. For the purpose of the hearing on the petition, such petition shall be deemed in the nature of a complaint. Objections of the water users or claimants, or any of them, to the granting of the petition shall be in writing signed by such users or claimants, or by any attorneys thereof. No other pleading shall be filed. Costs shall be paid as in civil cases brought in the district court, except by the State Engineer or the State. The practice in civil cases shall apply



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1 insofar as consistent with the summary character of the proceedings.
2 The State Engineer shall be given notice of and, in person or by
3 assistant or deputy state engineer, shall attend upon the hearing of
4 the petition.

5 4. The court, prior to the final determination of the matter,
6 may, by an order duly entered and served upon the State Engineer,
7 direct the State Engineer to make a hydrographic survey of the
8 stream system and to render to the court a written report, together
9 with such maps and other necessary data as will enable the court to
10 determine whether or not administration of such water rights by the
11 State Engineer would be in the best interest of the water users.

12 5. If the district court finally determines the matter
13 affirmatively, the court shall, by its judgment duly entered and
14 served on the State Engineer, direct the State Engineer to distribute
15 such waters in strict accordance with the decree, and from and after
16 the filing of such judgment in the district court and service thereof
17 on the State Engineer the administration of the decree and the
18 distribution of the water thereunder shall be under the supervision
19 and control of the district court, and the State Engineer, the State
20 Engineer's deputies, assistants and water commissioners, when
21 engaged in the administration of the final decree and the distribution
22 of the water thereunder, shall be deemed officers of the district court
23 only and subject only to its supervision and control.

24 6. Appeals may be taken from the judgment so entered to the
25 *appellate court of competent jurisdiction pursuant to the rules*
26 *fixed by the Supreme Court pursuant to Section 4 of Article 6 of*
27 *the Nevada Constitution* in the same manner and within the time as
28 provided in NRS 533.450.

29 **Sec. 180.** NRS 533.450 is hereby amended to read as follows:

30 533.450 1. Any person feeling aggrieved by any order or
31 decision of the State Engineer, acting in person or through the
32 assistants of the State Engineer or the water commissioner, affecting
33 the person's interests, when the order or decision relates to the
34 administration of determined rights or is made pursuant to NRS
35 533.270 to 533.445, inclusive, or NRS 533.481, 534.193, 535.200 or
36 536.200, may have the same reviewed by a proceeding for that
37 purpose, insofar as may be in the nature of an appeal, which must be
38 initiated in the proper court of the county in which the matters
39 affected or a portion thereof are situated, but on stream systems
40 where a decree of court has been entered, the action must be
41 initiated in the court that entered the decree. The order or decision of
42 the State Engineer remains in full force and effect unless
43 proceedings to review the same are commenced in the proper court
44 within 30 days after the rendition of the order or decision in



1 question and notice thereof is given to the State Engineer as
2 provided in subsection 3.

3 2. The proceedings in every case must be heard by the court,
4 and must be informal and summary, but full opportunity to be heard
5 must be had before judgment is pronounced.

6 3. No such proceedings may be entertained unless notice
7 thereof, containing a statement of the substance of the order or
8 decision complained of, and of the manner in which the same
9 injuriously affects the petitioner's interests, has been served upon
10 the State Engineer, personally or by registered or certified mail, at
11 the Office of the State Engineer at the State Capital within 30 days
12 following the rendition of the order or decision in question. A
13 similar notice must also be served personally or by registered or
14 certified mail upon the person who may have been affected by the
15 order or decision.

16 4. Where evidence has been filed with, or testimony taken
17 before, the State Engineer, a transcribed copy thereof, or of any
18 specific part of the same, duly certified as a true and correct
19 transcript in the manner provided by law, must be received in
20 evidence with the same effect as if the reporter were present and
21 testified to the facts so certified. A copy of the transcript must be
22 furnished on demand, at actual cost, to any person affected by the
23 order or decision, and to all other persons on payment of a
24 reasonable amount therefor, to be fixed by the State Engineer.

25 5. An order or decision of the State Engineer must not be
26 stayed unless the petitioner files a written motion for a stay with the
27 court and serves the motion personally or by registered or certified
28 mail upon the State Engineer, the applicant or other real party in
29 interest and each party of record within 10 days after the petitioner
30 files the petition for judicial review. Any party may oppose the
31 motion and the petitioner may reply to any such opposition. In
32 determining whether to grant or deny the motion for a stay, the court
33 shall consider:

34 (a) Whether any nonmoving party to the proceeding may incur
35 any harm or hardship if the stay is granted;

36 (b) Whether the petitioner may incur any irreparable harm if the
37 stay is denied;

38 (c) The likelihood of success of the petitioner on the merits; and

39 (d) Any potential harm to the members of the public if the stay
40 is granted.

41 6. Except as otherwise provided in this subsection, the
42 petitioner must file a bond in an amount determined by the court,
43 with sureties satisfactory to the court and conditioned in the manner
44 specified by the court. The bond must be filed within 5 days after
45 the court determines the amount of the bond pursuant to this



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1 subsection. If the petitioner fails to file the bond within that period,
2 the stay is automatically denied. A bond must not be required for a
3 public agency of this State or a political subdivision of this State.

4 7. Costs must be paid as in civil cases brought in the district
5 court, except by the State Engineer or the State.


6 8. The practice in civil cases applies to the informal and
7 summary character of such proceedings, as provided in this section.

8 9. Appeals may be taken to the *appellate court of competent*
9 *jurisdiction pursuant to the rules fixed by the* Supreme Court
10 *pursuant to Section 4 of Article 6 of the Nevada Constitution* from
11 the judgment of the district court in the same manner as in other
12 civil cases.

13 10. The decision of the State Engineer is prima facie correct,
14 and the burden of proof is upon the party attacking the same.

15 11. Whenever it appears to the State Engineer that any
16 litigation, whether now pending or hereafter brought, may adversely
17 affect the rights of the public in water, the State Engineer shall
18 request the Attorney General to appear and protect the interests of
19 the State.

20 **Sec. 181.** NRS 533.455 is hereby amended to read as follows:

21 533.455 1. Whenever a decree determining and adjudicating
22 the relative rights of the claimants to the use of water of a stream or
23 stream system has been entered in the district court pursuant to the
24 provisions of this chapter, and the decree becomes final and the
25 State Engineer has brought in that court any proceeding, either civil
26 or of a criminal nature, concerning the administration of and for the
27 enforcement of the provisions of the decree, and wherein the
28 validity of the decree or any of its provisions is drawn in question by
29 adversary parties and the decision or judgment of the court is that
30 the decree or a part thereof is invalid, the State Engineer shall be
31 deemed a party in interest with the right to take an appeal from such
32 decision or judgment to the *appellate court of competent*
33 *jurisdiction pursuant to the rules fixed by the* Supreme Court 
34 *pursuant to Section 4 of Article 6 of the Nevada Constitution.*

35 2. Such appeal may be taken in the same manner as appeals in
36 civil cases.

37 **Sec. 182.** NRS 541.080 is hereby amended to read as follows:

38 541.080 1. At any time after the filing of a petition for the
39 organization of a water conservancy district and not less than 10
40 days before the time fixed by the order of court for the hearing upon
41 the petition, and not thereafter, a petition may be filed in the office
42 of the clerk of the court wherein the proceeding for the creation of
43 the district is pending, signed by not fewer than 25 percent of the
44 owners of the lands in the proposed district, but not embraced within
45 the limits of any city or town, the aggregate assessed value of



1 which, together with improvements thereon, is not less than 25
2 percent of the total assessed value of land, together with the
3 improvements thereon, within the proposed district situated outside
4 such limits, and also signed by not fewer than 25 percent of the
5 owners of lands embraced within the limits of each city and town in
6 the proposed district, protesting the creation of the district. The
7 signers of the protesting petition shall state therein the land owned
8 by each, and shall also state the value thereof as shown by the last
9 preceding assessment. The term "owners of land," as used in this
10 subsection with reference to persons outside the limits of a city or
11 town within the district, means those persons who own 5 acres or
12 more of real estate, and the term "owners of land," as used in this
13 subsection with reference to persons within a city or town, means
14 those persons who own real estate, including any improvements
15 thereon, having an assessed valuation of \$300 or more.

16 2. If a petitioner signs the petition both as owner of land
17 situated within a municipality, and owner of land situated without a
18 municipality, his or her name may be counted only as an owner of
19 land situated without a municipality.

20 3. Upon the filing of such protesting petition, the clerk of the
21 court forthwith shall make as many certified copies thereof,
22 including the signatures thereto, as there are counties in which any
23 part of the proposed district extends, and forthwith shall place in the
24 hands of the county treasurer of each such county one of the
25 certified copies. Thereupon, each of the county treasurers shall
26 determine from the tax rolls of the county in his or her hands and
27 shall certify to the district court under the official seal of the county
28 treasurer, before the day fixed for the hearing as aforesaid, the total
29 valuation of the several tracts of land listed in the protest, situated in
30 the proposed district within the county. Upon the day set for the
31 hearing upon the original petition, if it appears to the court from
32 such certificate or certificates, and from such other evidence as may
33 be adduced by any party in interest, that the protesting petition is not
34 signed by the requisite number of owners of lands and of the
35 requisite value as set forth in this section, the court shall thereupon
36 dismiss the protesting petition and shall proceed with the original
37 hearing as provided in this section.

38 4. If the court finds from the evidence that the protesting
39 petition is signed by the requisite number of owners of lands and of
40 the requisite values, the court shall forthwith dismiss the original
41 petition praying for the creation of the district. The finding and
42 order of the court upon the question of such total valuation, the
43 genuineness of the signatures, and all matters of law and fact
44 incident to such determination is conclusive on all parties in interest,
45 whether appearing or not, unless within 30 days after entry of the



1 order or dismissal an appeal is taken to the ~~Supreme Court~~
2 *appellate court of competent jurisdiction* as provided in
3 subsection 10.

4 5. Any owner of real property in the proposed district desiring
5 to object to the organization and incorporation of the district, may,
6 on or before the date set for the cause to be heard, file objection to
7 the organization and incorporation of the district. Such objection
8 must be limited to a denial of the statements in the petition and must
9 be heard by the court as an advanced case without unnecessary
10 delay. On the final hearing of the petition the court shall define and
11 establish the boundaries of the district.

12 6. Upon the hearing, if it appears that a petition for the
13 organization of a water conservancy district has been presented, in
14 conformity with this chapter, and that the allegations of the petition
15 are true and that no protesting petition has been filed or if filed has
16 been dismissed as provided in this section, the court shall, by order
17 duly entered of record, adjudicate all questions of jurisdiction,
18 declare the district organized and give it a corporate name by which
19 in all proceedings it must thereafter be known, and thereupon the
20 district is a political subdivision of the State of Nevada and a body
21 corporate with all the powers of a public or quasi-municipal
22 corporation.

23 7. In such a decree the court shall designate the place where the
24 office or principal place of the district must be located, which must
25 be within the corporate limits of the district, and which may be
26 changed by order of the board from time to time. The regular
27 meetings of the board must be held at such office or place of
28 business, but for cause may be adjourned to any other convenient
29 place. The official records and files of the district must be kept at
30 the office so established.

31 8. If the court finds that no petition has been presented in
32 conformity with this chapter, or that the material facts are not as set
33 forth in the petition filed, it shall dismiss the proceedings and
34 adjudge the costs against the county that filed the petition. An
35 appeal to the ~~Supreme Court~~ *appellate court of competent*
36 *jurisdiction* from the order of dismissal may be taken as provided in
37 subsection 10. Nothing in this section prevents the filing of a
38 subsequent petition or petitions for similar improvements or for a
39 similar water conservancy district, and the right so to renew such
40 proceedings is hereby expressly granted and authorized.

41 9. If an order is entered establishing the district, the order is
42 final and conclusively establishes the regular organization of the
43 district against all persons, unless an appeal is taken to the *appellate*
44 *court of competent jurisdiction pursuant to the rules fixed by the*
45 Supreme Court *pursuant to Section 4 of Article 6 of the Nevada*



1 *Constitution* or quo warranto proceedings attacking the order are
2 instituted on behalf of the State of Nevada by the Attorney General.
3 The organization of the district may not be directly or collaterally
4 questioned in any suit, action or proceedings except as expressly
5 authorized in this section.

6 10. Any petitioner, protestant or objector is entitled to appeal to
7 the *appellate court of competent jurisdiction pursuant to the rules*
8 *fixed by the* Supreme Court *pursuant to Section 4 of Article 6 of*
9 *the Nevada Constitution* from the order of the district court entered
10 pursuant to this section. Such appeals must be taken within 30 days
11 after the entry of the order in accordance with the Nevada Rules of
12 Appellate Procedure.

13 **Sec. 183.** NRS 612.530 is hereby amended to read as follows:

14 612.530 1. Within 11 days after the decision of the Board of
15 Review has become final, any party aggrieved thereby or the
16 Administrator may secure judicial review thereof by commencing
17 an action in the district court of the county where the employment
18 which is the basis of the claim was performed for the review of the
19 decision, in which action any other party to the proceedings before
20 the Board of Review must be made a defendant.

21 2. In such action, a petition which need not be verified, but
22 which must state the grounds upon which a review is sought, must
23 be served upon the Administrator, unless the Administrator is the
24 appellant, or upon such person as the Administrator may designate,
25 and such service shall be deemed completed service on all parties,
26 but there must be left with the party so served as many copies of the
27 petition as there are defendants, and the Administrator shall
28 forthwith mail one such copy to each defendant.

29 3. With the Administrator's answer or petition, the
30 Administrator shall certify and file with the court originals or true
31 copies of all documents and papers and a transcript of all testimony
32 taken in the matter, together with the Board of Review's findings of
33 fact and decision therein. The Administrator may certify to the court
34 questions of law involved in any decision.

35 4. In any judicial proceedings under this section, the finding of
36 the Board of Review as to the facts, if supported by evidence and in
37 the absence of fraud, is conclusive, and the jurisdiction of the court
38 is confined to questions of law.

39 5. Such actions, and the questions so certified, must be heard in
40 a summary manner and must be given precedence over all other
41 civil cases except cases arising under chapters 616A to 616D,
42 inclusive, or chapter 617 of NRS.

43 6. An appeal may be taken from the decision of the district
44 court to the *appellate court of competent jurisdiction pursuant to*
45 *the rules fixed by the* Supreme Court of Nevada *pursuant to*



1 *Section 4 of Article 6 of the Nevada Constitution* in the same
2 manner, but not inconsistent with the provisions of this chapter, as is
3 provided in civil cases.

4 7. It is not necessary, in any judicial proceeding under this
5 section, to enter exceptions to the rulings of the Board of Review,
6 and no bond may be required for entering the appeal.

7 8. Upon the final determination of the judicial proceeding, the
8 Board of Review shall enter an order in accordance with the
9 determination.

10 9. A petition for judicial review does not act as a supersedeas
11 or stay unless the Board of Review so orders.

12 **Sec. 184.** NRS 612.640 is hereby amended to read as follows:

13 612.640 Appeals may be taken to the *appellate court of*
14 *competent jurisdiction pursuant to the rules fixed by the* Supreme
15 Court *pursuant to Section 4 of Article 6 of the Nevada*
16 *Constitution* from the judgment of the district court in the same
17 manner and with the same effect as in other civil cases, except that
18 notice of appeal must be served and filed within 60 days from the
19 entry of judgment.

20 **Sec. 185.** NRS 612.645 is hereby amended to read as follows:

21 612.645 1. In all proceedings under NRS 612.625 to 612.640,
22 inclusive, the Unemployment Compensation Service shall be
23 authorized to act in its name on behalf of the State of Nevada.

24 2. No costs or filing fees shall be charged to the State of
25 Nevada in any proceedings brought under any provision of NRS
26 612.625 to 612.640, inclusive, nor shall any bond or undertaking be
27 required of the State of Nevada, either in proceedings in the district
28 court or on appeal to the *appellate court of competent jurisdiction*
29 *pursuant to the rules fixed by the* Supreme Court ~~+~~ *pursuant to*
30 *Section 4 of Article 6 of the Nevada Constitution.*

31 **Sec. 186.** NRS 613.435 is hereby amended to read as follows:

32 613.435 1. The ~~{Supreme Court}~~ *appellate court of*
33 *competent jurisdiction* shall, with regard to an appeal from a final
34 judgment in an action for age discrimination in employment brought
35 pursuant to NRS 613.420 or 29 U.S.C. §§ 621-634, provide by rule
36 for the filing of briefs within 6 months after the date of entry of the
37 judgment. The ~~{Supreme Court}~~ *appellate court of competent*
38 *jurisdiction* for good cause shown may grant an extension of time
39 for the filing of such briefs.

40 2. Unless good cause is shown for a later hearing, the
41 ~~{Supreme Court}~~ *appellate court of competent jurisdiction* shall,
42 with regard to an appeal to which subsection 1 applies, set the
43 appeal for argument on a date within 60 days after the expiration of
44 the period for filing briefs.



Sec. 187. NRS 614.040 is hereby amended to read as follows:

614.040 1. The award being filed in the clerk's office of the district court, as provided in NRS 614.030, it shall go into practical operation and judgment shall be entered thereon accordingly at the expiration of 10 days from such filing, unless within such 10 days either party shall file exceptions thereto for matter of law apparent on the record, in which case the award shall go into practical operation and judgment shall be entered accordingly when such exceptions shall have been finally disposed of either by the district court or on appeal therefrom.

2. At the expiration of 10 days from the decision of the district court upon exception taken to the award as stated in subsection 1, judgment shall be entered in accordance with the decision, unless during the 10 days either party shall appeal therefrom to the *appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court of the State of Nevada* ~~§~~ *pursuant to Section 4 of Article 6 of the Nevada Constitution*. In such case only such portion of the record shall be transmitted to the ~~§~~ *Supreme Court* ~~§~~ *appellate court of competent jurisdiction* as is necessary to a proper understanding and consideration of the questions of law presented by the exceptions and to be decided.

3. The determination of the ~~§~~ *Supreme Court* ~~§~~ *appellate court of competent jurisdiction* upon the questions shall be final, and, being certified by the clerk thereof to the district court, judgment pursuant thereto shall thereupon be entered by the district court.

4. If exceptions to an award are finally sustained, judgment shall be entered setting aside the award, but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment when entered shall have the same force and effect as judgment entered upon an award.

Sec. 188. NRS 616A.455 is hereby amended to read as follows:

616A.455 1. Except as otherwise provided in subsection 3, the Nevada Attorney for Injured Workers shall, when appointed by an appeals officer or the Administrator, represent without charge a claimant before the appeals officer, Administrator, district court, *Court of Appeals* or Supreme Court. In addition, the Nevada Attorney for Injured Workers may give advice regarding a claimant's rights before a hearing officer and the procedure for enforcing those rights.

2. When representing a claimant, the Nevada Attorney for Injured Workers shall:

(a) Advise the claimant and present the claimant's case to the appeals officer or Administrator; and



(b) Present in the district court or ~~Supreme Court~~ *the appellate court of competent jurisdiction* an appeal from the decision of the appeals officer or Administrator if, in the opinion of the Nevada Attorney for Injured Workers, the appeal is merited.

3. If the Nevada Attorney for Injured Workers determines, in accordance with the guidelines adopted pursuant to subsection 4, that a claim is frivolous or lacks merit, he or she may refuse to represent a claimant.

4. The Nevada Attorney for Injured Workers shall establish the policies to be followed in determining whether a claim is frivolous or lacks merit.

Sec. 189. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court, *the Court of Appeals* or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

4. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to the claimant with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

5. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 or 2 by:



1 (a) Mailing its written determination to the claimant or the
2 person acting on behalf of the claimant; and

3 (b) If the claim has been denied, in whole or in part, obtaining a
4 certificate of mailing.

5 6. The failure of the insurer to obtain a certificate of mailing as
6 required by paragraph (b) of subsection 5 shall be deemed to be a
7 failure of the insurer to mail the written determination of the denial
8 of a claim as required by this section.

9 7. The failure of the insurer to indicate the acceptance or denial
10 of a claim for a part of the body or condition does not constitute a
11 denial or acceptance thereof.

12 8. Upon request, the insurer shall provide a copy of the
13 certificate of mailing, if any, to the claimant or the person acting on
14 behalf of the claimant.

15 9. For the purposes of this section, the insurer shall mail the
16 written determination to:

17 (a) The mailing address of the claimant or the person acting on
18 behalf of the claimant that is provided on the form prescribed by the
19 Administrator for filing the claim; or

20 (b) Another mailing address if the claimant or the person acting
21 on behalf of the claimant provides to the insurer written notice of
22 another mailing address.

23 10. As used in this section, "certificate of mailing" means a
24 receipt that provides evidence of the date on which the insurer
25 presented its written determination to the United States Postal
26 Service for mailing.

27 **Sec. 190.** NRS 624.510 is hereby amended to read as follows:

28 624.510 1. Except as otherwise provided in NRS 624.490
29 and subsection 2, an injured person is eligible for recovery from the
30 account if the Board or its designee finds that the injured person
31 suffered actual damages as a result of an act or omission of a
32 residential contractor that is in violation of this chapter or the
33 regulations adopted pursuant thereto.

34 2. An injured person is not eligible for recovery from the
35 account if:

36 (a) The injured person is the spouse of the licensee, or a personal
37 representative of the spouse of the licensee;

38 (b) The injured person was associated in a business relationship
39 with the licensee other than the contract at issue; or

40 (c) At the time of contracting with the residential contractor, the
41 license of the residential contractor was suspended or revoked
42 pursuant to NRS 624.300.

43 3. If the Board or its designee determines that an injured person
44 is eligible for recovery from the account pursuant to this section or
45 NRS 624.490, the Board or its designee may pay out of the account:



* S B 4 6 3 R 1 *

(a) The amount of actual damages suffered, but not to exceed \$35,000; or

(b) If a judgment was obtained as set forth in NRS 624.490, the amount of actual damages included in the judgment and remaining unpaid, but not to exceed \$35,000.

4. The decision of the Board or its designee regarding eligibility for recovery and all related issues is final and not subject to judicial review.

5. If the injured person has recovered a portion of his or her loss from sources other than the account, the Board shall deduct the amount recovered from the other sources from the amount payable upon the claim and direct the difference to be paid from the account.

6. To the extent of payments made from the account, the Board is subrogated to the rights of the injured person, including, without limitation, the right to collect from a surety bond or a cash bond. The Board and the Attorney General shall promptly enforce all subrogation claims.

7. The amount of recovery from the account based upon claims made against any single contractor must not exceed \$400,000.

8. As used in this section, "actual damages" includes attorney's fees or costs in contested cases appealed to the ~~Supreme Court of this State.~~ *appellate court of competent jurisdiction.* The term does not include any other attorney's fees or costs.

Sec. 191. NRS 696B.190 is hereby amended to read as follows:

696B.190 1. The district court has original jurisdiction of delinquency proceedings under NRS 696B.010 to 696B.565, inclusive, and any court with jurisdiction may make all necessary or proper orders to carry out the purposes of those sections.

2. The venue of delinquency proceedings against a domestic insurer must be in the county in this state of the insurer's principal place of business or, if the principal place of business is located in another state, in any county in this state selected by the Commissioner for the purpose. The venue of proceedings against foreign insurers must be in any county in this state selected by the Commissioner for the purpose.

3. At any time after commencement of a proceeding, the Commissioner or any other party may apply to the court for an order changing the venue of, and removing, the proceeding to any other county of this state in which the proceeding may most conveniently, economically and efficiently be conducted.

4. No court has jurisdiction to entertain, hear or determine any petition or complaint praying for the dissolution, liquidation, rehabilitation, sequestration, conservation or receivership of any insurer, or for an injunction or restraining order or other relief



1 preliminary, incidental or relating to such proceedings, other than in
2 accordance with NRS 696B.010 to 696B.565, inclusive.

3 5. An appeal to the *appellate court of competent jurisdiction*
4 *pursuant to the rules fixed by the* Supreme Court *pursuant to*
5 *Section 4 of Article 6 of the Nevada Constitution* may be taken
6 from any court granting or refusing rehabilitation, liquidation,
7 conservation or receivership, and from every order in delinquency
8 proceedings having the character of a final order as to the particular
9 portion of the proceedings embraced therein.

10 **Sec. 192.** NRS 703.376 is hereby amended to read as follows:

11 703.376 Any party to the action, within 60 days after the
12 service of a copy of the order or judgment of the district court, may
13 appeal to the *appellate court of competent jurisdiction pursuant to*
14 *the rules fixed by the* Supreme Court *pursuant to Section 4 of*
15 *Article 6 of the Nevada Constitution* as in other civil cases.

16 **Sec. 193.** This act becomes effective on January 1, 2015, if
17 Senate Joint Resolution No. 14 of the 76th Session of the Nevada
18 Legislature is agreed to and passed by the 2013 Legislature and
19 approved and ratified by the voters at the 2014 Election.

