

THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 22, 2013

Senate called to order at 11:59 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Richard Mannis.

The Master's Prayer:

O' Parvardigar, the Preserver and Protector of All. You are without beginning and without end; non-dual, beyond comparison and none can measure You. You are without color, without expression, without form and without attributes. You are unlimited and unfathomable, beyond imagination and conception, eternal and imperishable. You are indivisible; and none can see You but with eyes divine.

You always were, You always are and You always will be. You are everywhere, You are in everything and You are also beyond everywhere and beyond everything. You are in the firmament and in the depths. You are manifest and unmanifest; on all planes, and beyond all planes. You are in the three worlds, and also beyond the three worlds. You are imperceptible and independent.

You are the Creator, the Lord of Lords, the Knower of all minds and hearts. You are Omnipotent and Omnipresent. You are Knowledge Infinite, Power Infinite and Bliss Infinite. You are the Ocean of Knowledge, all-knowing, infinitely-knowing; the Knower of the Past, the Present and the Future; and You are Knowledge itself.

You are all-merciful and eternally benevolent. You are the soul of souls, the One with infinite attributes. You are the Trinity of Truth, Knowledge and Bliss. You are the Source of Truth; the Ocean of Love. You are the Ancient One, the Highest of the High; You are Prabhu and Parameshwar; You are the Beyond-God and the Beyond-Beyond-God also; You are Parabrahma, Allah, Elahi, Yezdan, Ahuramazda and God the Beloved. You are named Ezad, the only One worthy of worship.

The Prayer of Repentance:

We repent, O' God Most Merciful, for all our sins; for every thought that was false, or unjust or unclean; for every word spoken that ought not to have been spoken; for every deed done that ought not to have been done.

We repent for every deed and word and thought inspired by selfishness, and for every deed and word and thought inspired by hatred.

We repent most specially for every lustful thought and every lustful action; for every lie; for all hypocrisy; for every promise given but not fulfilled and for all slander and backbiting.

Most specially also, we repent for every action that has brought ruin to others; for every word and deed that has given others pain; and for every wish that pain should befall others.

In Your unbound mercy. We ask You to forgive us, O' God. For all these sins committed by us, and to forgive us for our constant failures to think and act according to Your will.

Beloved God, help us all to love You more and more, and more and more and still yet more. Till we become worthy of union with You; and help us all to hold fast to Baba's damaan till the end.

Om, peace, peace, peace, Om. Namaste.

Pledge of Allegiance to the Flag.

The President announced that under previous order, the reading of the Journal is waived for the remainder of the 77th Legislative Session and the President and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 230, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 126, 286, 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 212, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 21, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 60, 155, 198.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 470, 473, 499.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 7, 311, 463, 482.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 20, Amendment No. 677; Senate Bill No. 22, Amendment No. 635; Senate Bill No. 25, Amendment No. 678; Senate Bill No. 36, Amendment No. 649; Senate Bill No. 39, Amendment No. 679; Senate Bill No. 66, Amendment No. 715; Senate Bill No. 82, Amendment No. 689; Senate Bill No. 109, Amendment No. 632; Senate Bill No. 135, Amendment No. 618; Senate Bill No. 152, Amendment No. 713; Senate Bill No. 169, Amendment No. 623; Senate Bill No. 185, Amendment No. 791; Senate Bill No. 199, Amendment No. 660; Senate Bill No. 213, Amendment No. 690; Senate Bill No. 266, Amendment No. 645, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that all bills and resolutions, reported out of Committee for this legislative day, be immediately placed on the appropriate reading files.

Motion carried.

Senator Smith moved that Assembly Bills Nos. 378, 496, be taken from the General File and placed on the Secretary's Desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 7.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 311.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 463.

Senator Smith moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 470.

Senator Smith moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 473.

Senator Smith moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 482.

Senator Smith moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 499.

Senator Smith moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 126.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 692.

"SUMMARY—Requires the disclosure of certain nutritional information in certain chain restaurants. (BDR 51-81)"

"AN ACT relating to food; requiring certain restaurants or similar retail food establishments to disclose certain nutritional information about the food offered for sale by those restaurants or establishments; providing for a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under federal law, a restaurant or similar retail food establishment that: (1) is part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items; or (2) elects to be subject to the disclosure requirements, is required to disclose certain nutritional information about the menu items offered for sale by the restaurant or establishment. (21 U.S.C. § 343(q)(5)(H)) Section 1 of this bill requires the owner or operator of any restaurant or similar retail food establishment that is part of a chain with 15 or more locations doing business within this State to disclose the same nutritional information that federal law requires a chain with 20 or more locations to disclose. Section 2 of this bill provides a civil penalty for the owner or operator of any restaurant or similar retail food establishment who fails to make the required disclosure of nutritional information.

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

Section 1. Chapter 585 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The owner or operator of a restaurant or similar retail food establishment shall comply with the requirements set forth in 21 U.S.C. § 343(q)(5)(H) and any federal regulations adopted pursuant thereto if the restaurant or similar retail food establishment:

(a) Is part of a chain with 15 or more locations doing business within this State under the same name, regardless of the type of ownership of the locations, and offering for sale substantially the same menu items;

(b) Is part of a chain with 20 or more locations doing business under the same name, regardless of the type of ownership of the locations, and offering for sale substantially the same menu items; or

(c) Elects for the restaurant or similar retail food establishment to be subject to the requirements of 21 U.S.C. § 343(q)(5)(H).

2. An owner or operator of a restaurant or similar retail food establishment who is required to comply with the requirements set forth in 21 U.S.C. § 343(q)(5)(H) and any federal regulations adopted pursuant thereto pursuant to subsection 1 shall post a notice in a conspicuous place in the restaurant or similar retail food establishment stating where a person may report any violation of this section.

3. The provisions of this section may be enforced by the health authority or the appropriate local law enforcement agency.

4. As used in this section:

(a) "Health authority" has the meaning ascribed to it in NRS 446.050.

(b) "Restaurant food" means food that is served in restaurants or other establishments in which food is served for immediate human consumption.

(c) "Restaurant or similar retail food establishment":

(1) Except as otherwise provided in subparagraph 2, means a retail establishment that offers for sale restaurant or restaurant-type food_;

~~[, where the establishment presents itself or has presented itself publicly as a restaurant, or a total of more than 50 percent of the gross floor area of the establishment is used for the preparation, purchase, service, consumption or storage of food;]~~ or

(2) If the term is defined in federal regulations for the purposes of 21 U.S.C. § 343(q)(5)(H), has the meaning ascribed to it in such federal regulations.

(d) "Restaurant-type food" means a type of restaurant food offered for sale but not for immediate consumption that is processed and prepared primarily in a retail establishment and not offered for sale outside of the establishment.

Sec. 2. NRS 585.550 is hereby amended to read as follows:

585.550 1. A person who manufactures, compounds, processes or packages any drug in a factory, warehouse, laboratory or other location in this state without a license required by NRS 585.245 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. ~~[The]~~ An owner or operator of a restaurant or similar retail food establishment who violates section 1 of this act is ~~guilty of a misdemeanor and shall be punished;]~~ liable for a civil penalty in the following amounts:

(a) For the first ~~[offense]~~ violation within the immediately preceding 5 years, ~~[by a fine of]~~ not less than \$50 but not more than \$500;

(b) For the second ~~[offense]~~ violation within the immediately preceding 5 years, ~~[by a fine of]~~ not less than \$100 but not more than \$1,000; and

(c) For the third or subsequent ~~[offense]~~ violation within the immediately preceding 5 years, ~~[by a fine of]~~ not less than \$250 but not more than \$2,500.

↪ For the purposes of this subsection, any number of ~~[offenses]~~ violations discovered in a single day constitute a single ~~[offense]~~ violation.

3. ~~[In lieu of prosecution for a misdemeanor pursuant to subsection 2, the]~~ Except as otherwise provided in this subsection, the health authority, as defined in NRS 446.050, within whose jurisdiction the violation of section 1 of this act occurs shall collect the civil penalty and may commence a civil proceeding for that purpose. The health authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy ~~[administrative]~~ civil penalties in an amount not to exceed the amounts set forth in subsection 2 for violations of the provisions of section 1 of this act.

4. A person who violates any other provision of this chapter is guilty of a gross misdemeanor.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 692 to Assembly Bill No. 126 removes the criminal penalty that would have applied if the owner or operator of a restaurant or similar food establishment failed to make the required disclosure of nutritional information and replaces it with a civil penalty. It also provides greater clarification by revising the definition of a "restaurant or similar retail food establishment" by removing certain descriptors.

Amendment adopted.

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

Assembly Bill No. 212.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 674.

"SUMMARY—Prohibits the possession of portable telecommunications devices by certain prisoners. (BDR 16-639)"

"AN ACT relating to correctional institutions; prohibiting the possession of portable telecommunications devices by certain prisoners; authorizing persons convicted of possessing portable telecommunications devices to request a modification of sentence under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits the possession of portable telecommunications devices by prisoners in state institutions and facilities. (NRS 212.165) This bill extends that prohibition to include any prisoner in a jail, branch county jail or other local detention facility and provides that a prisoner who violates the prohibition is guilty of: (1) a category D felony if he or she was confined as a result of a felony; (2) a gross misdemeanor if he or she was confined as a result of a gross misdemeanor; or (3) a misdemeanor if he or she was confined as a result of a misdemeanor. This bill also authorizes a person who was convicted of possessing a portable telecommunications device in a jail, branch county jail or other local detention facility to request a modification of his or her sentence if the underlying charge for which the person was in lawful custody or confinement has been reduced, declined for prosecution or dismissed.

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

Section 1. NRS 212.165 is hereby amended to read as follows:

212.165 1. A person shall not, without lawful authorization, knowingly furnish, attempt to furnish, or aid or assist in furnishing or attempting to furnish to a prisoner confined in an institution or a facility of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A person shall not, without lawful authorization, carry into an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a misdemeanor.

3. A prisoner confined in an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the

Director of the Department, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. *A prisoner confined in a jail or any other place where such prisoners are authorized to be or are assigned by the sheriff, chief of police or other officer responsible for the operation of the jail, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection and who is in lawful custody or confinement for a charge, conviction or sentence for:*

(a) A felony is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) A gross misdemeanor is guilty of a gross misdemeanor.

(c) A misdemeanor is guilty of a misdemeanor.

5. A sentence imposed upon a prisoner pursuant to subsection 3 ~~[-]~~ or 4:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon the prisoner for the offense or offenses for which the prisoner was in lawful custody or confinement when the prisoner violated the provisions of subsection 3 ~~[-]~~

~~5-]~~ or 4.

6. *A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in lawful custody or confinement has been reduced to a charge for which the penalty is less than the penalty which was imposed upon the person pursuant to subsection 4, with the court of original jurisdiction requesting that the court, for good cause shown:*

(a) Order that his or her sentence imposed pursuant to subsection 4 be modified to a sentence equivalent to the penalty imposed for the underlying charge for which the person was convicted; and

(b) Resentence him or her in accordance with the penalties prescribed for the underlying charge for which the person was convicted.

7. *A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in lawful custody or confinement has been declined for prosecution or dismissed, with the court of original jurisdiction requesting that the court, for good cause shown:*

(a) Order that his or her original sentence pursuant to subsection 4 be reduced to a misdemeanor; and

(b) Resentence him or her in accordance with the penalties prescribed for a misdemeanor.

8. *No person has a right to the modification of a sentence pursuant to subsection 6 or 7, and the granting or denial of a petition pursuant to subsection 6 or 7 does not establish a basis for any cause of action against this State, any political subdivision of this State or any agency, board,*

commission, department, officer, employee or agent of this State or a political subdivision of this State.

9. As used in this section:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

(c) "Jail" means a jail, branch county jail or other local detention facility.

(d) "Telecommunications device" has the meaning ascribed to it in subsection 3 of NRS 209.417.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 674 to Assembly Bill No. 212 authorizes a person, who was convicted of possessing a portable telecommunications device in a jail, branch county jail or other local detention facility, to request a modification of the sentence if the underlying charge for which the person was in lawful custody or confinement has been reduced, declined for prosecution or dismissed.

Amendment adopted.

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

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:26 p.m.

SENATE IN SESSION

At 12:30 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 8.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 8—Memorializing John J. McDonald.

WHEREAS, The members of the 77th Session of the Nevada Legislature note with profound sorrow the loss of John McDonald, a man whose legacy continues to enrich his community, on February 6, 2013; and

WHEREAS, John Joseph McDonald was born in Butte, Montana, on June 21, 1925, to Frank and Margie McDonald; and

WHEREAS, After serving in World War II, John married his wife Doris in 1952, and the young family moved to Nevada in 1960 to put down its roots in Las Vegas; and

WHEREAS, John worked in various casinos as a card dealer and eventually moved up the ranks to become a casino manager; and

WHEREAS, After his retirement in 1990, this lifelong football fan devoted his time and energy to youth sports, particularly his mission to ensure that local youth, regardless of background, were afforded recreational opportunities they may not otherwise have had; and

WHEREAS, Mr. McDonald enthusiastically took on the task of coaching neighborhood children who were cut from the Pop Warner football team, and as an added bonus to being taught focus, teamwork and leadership, those children would make the team the following year; and

WHEREAS, In the 1990s, John began working with neighbors near Buffalo Drive to advocate for the transformation of vacant land in the area to a youth football-designated complex, and his vision was realized in 2001 with the opening of All American Park, featuring six fields for youth football; and

WHEREAS, In January of 2012, this community leader's efforts were recognized with the naming of the John J. McDonald Football Complex at All American Park; and

WHEREAS, A loyal supporter of the sport, John traveled to see many University of Notre Dame football games, and his last family vacation was a trip to see Notre Dame win against the University of Southern California; and

WHEREAS, In addition to his sports-related hobbies and endeavors, John was active in politics and generously devoted time and energy to many campaigns; and

WHEREAS, Because he extended warmth and friendship to everyone equally, John was fondly known as "Mr. Mac," "Dad" or "Pops," and his positive outlook and gregarious smile will be greatly missed; and

WHEREAS, John was preceded in death by his beloved wife Doris Adair McDonald and sons-in-law Terry Pinter and Tommy Lavin, and he leaves behind daughters Jacquelyn McDonald Lavin and Kerry Lee McDonald, son Michael J. McDonald and his fiancée Jolette, grandchildren TJ and Brooke Lavin and great-grandchildren Justice and Aspen Lavin; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 77th Session of the Nevada Legislature hereby extend their deepest condolences to John's beloved family and countless friends; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to John's children Jacquelyn, Kerry Lee and Michael.

Senator Denis moved the adoption of the resolution.

Remarks by Senator Denis.

Thank you, Mr. President. I would like to say a few words about John J. McDonald—Dad or Mr. Mac as he was known. Like a lot of people who live in Nevada, John was from elsewhere. But, when he moved here after being discharged from the Navy, he came to stay and made Las Vegas his home. He worked in the casino industry, raised a wonderful family and was involved with youth, and later, politics. He was a dedicated family man and knew that without making the effort, nothing gets done.

Living in a large city can be challenging, particularly for youngsters as they find their place in society. John worked with at-risk youth and taught them the fundamentals of sports—especially football, his favorite sport. He used sports to give them confidence and steer them toward positive endeavors. John was even known to sponsor Pop Warner football teams and give kids individualized coaching. John expected honesty from his own children, and this extended to his players.

He considered integrity an important part of a person's character. If a person did something wrong, they had to own up to it. John lived by his values. He enjoyed time with his family,

friends and players. Conversation was an important way for him to stay involved with people. John J. McDonald was an inspiration to many people and made many friends.

In Las Vegas, when you drive by the John J. McDonald Football Complex, it serves as a reminder of a gracious man. He was committed to his family, to his community and to the youth, who he knew represented the future. He was a man with integrity. He was an inspiration to all of us. I can sincerely say, Mr. Mac, we miss you.

Resolution adopted unanimously.

Resolution ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:39 p.m.

SENATE IN SESSION

At 12:41 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 752.

"SUMMARY—Revises provisions governing courses of instruction in sex education. (BDR 34-1034)"

"AN ACT relating to education; requiring the board of trustees of each school district to establish a comprehensive, age-appropriate and medically accurate course of instruction in sex education; requiring the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for a course of instruction in sex education as part of a course of study in health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of trustees of a school district to establish a course or a unit of a course of instruction concerning acquired immune deficiency syndrome, the human reproductive system, related communicable diseases and sexual responsibility which must be taught by a teacher or school nurse whose qualifications have been approved by the board of trustees. Existing law further requires the board of trustees to appoint an advisory committee to advise the district concerning the content of and materials to be used in such a course of instruction and requires the parent or guardian of a pupil to consent in writing before the pupil may participate in the course. (NRS 389.065) Section 1 of this bill requires the board of trustees of each school district to establish a course of factual instruction in sex education and prescribes the topics which must be included in the course of instruction. Section 1 requires that the course of instruction in sex education

be age-appropriate for the pupils who receive the instruction, comprehensive and, as applicable, medically accurate. Section 1 additionally revises the composition of the membership of the advisory committee and revises the qualifications which authorize a person to teach the course of instruction in sex education. Section 1 establishes the general rule that requires the ~~notice to~~ consent in writing of the parent or guardian of a pupil ~~to whom~~ before the pupil may participate in a course of instruction in sex education. ~~is offered to include a form for the parent or guardian to opt the pupil out of the course of instruction.~~ This general rule does not apply if the board of trustees of a school district has adopted a policy that allows each pupil in the school district to attend a course of instruction in sex education unless the parent or guardian of the pupil opts the pupil out of the course of instruction.

Existing law requires the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for certain courses of study, including health. (NRS 389.520) Section 2 of this bill requires the Council to establish standards of content and performance for the course of instruction in sex education required by section 1 as part of the course of study in health.

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

Section 1. NRS 389.065 is hereby amended to read as follows:

389.065 1. The board of trustees of ~~[a]~~ each school district shall establish ~~[a course or unit of]~~ a course of ~~[-~~:

~~(a) ~~Factual~~ factual instruction ~~[concerning acquired]~~ in sex education. The course of instruction must comply with the standards of content and performance for a course of study in health established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520 and must be age-appropriate for the pupils who receive the instruction. Based upon the grade level of pupils designated by the board of trustees, the course of instruction must include comprehensive, and as applicable, medically accurate, information regarding:~~

~~(a) Acquired immune deficiency syndrome ~~[- and]~~, including ~~f, without limitation,~~ the human immunodeficiency virus;~~

~~(b) ~~[Instruction on the]~~ The human reproductive system, ~~[related communicable]~~ including ~~f, without limitation,~~ anatomy and physiology, puberty, pregnancy, parenting, body image, gender stereotypes and the biological, psychosocial and emotional changes that accompany maturation;~~

~~(c) Communicable diseases ~~[and sexual responsibility]~~ that are known to be sexually transmitted, including ~~f, without limitation,~~ the proper use and effectiveness of methods to avoid such diseases, and the availability, effectiveness and safety of any vaccinations, tests and treatments for such diseases;~~

~~(d) Domestic violence, sexual abuse, sexual assault, exploitation and human trafficking;~~

(e) The development of skills necessary to promote sexual responsibility, including ~~[-without limitation,]~~ skills to assist pupils in setting and meeting goals, identifying the characteristics of a healthy relationship, negotiating, communicating with parents and family, and refusing unwanted sexual advances or activity;

(f) Methods of contraception which may be used to prevent pregnancy, including ~~[-without limitation,]~~ the proper use, effectiveness, safety, health benefits and side effects of each method of contraception;

(g) The importance of abstinence as the most effective method of preventing an unwanted pregnancy or a sexually transmitted disease;

(h) The identification and explanation of available counseling and legal and medical information concerning health services, including ~~[-without limitation,]~~ resources to assist pupils with addressing and escaping a violent or exploitative relationship, effective and safe methods of contraception and contraceptive devices, and screening and treatment for sexually transmitted diseases and other related communicable diseases;

(i) The effects of alcohol and drug use on responsible decision making;

(j) Data to counter misinformation about and the effects of peer pressure and of social and other media on a pupil's thoughts, feelings and behaviors related to sexuality and sexual behavior; and

(k) The state and federal laws relating to consent, the age of consent, statutory rape, the electronic transmission of sexual images prohibited by NRS 200.737 or other material and any other legal issues relevant to sex education.

➡ The board of trustees shall periodically revise the content of the course of instruction as necessary to ensure that the content of the course of instruction is current, age-appropriate and, as applicable, medically accurate.

2. The course of instruction offered pursuant to this section must:

(a) Use methods of teaching and include materials which ensure nondiscriminatory instruction of all pupils, regardless of race, gender, gender identity or expression, religion, sexual orientation, ethnic or cultural background or disability.

(b) Appropriately prepare pupils who have or are currently engaged in sexual activity and pupils who may engage in sexual activity in the future.

3. Each board of trustees shall appoint an advisory committee consisting of:

(a) Five parents of children who attend ~~[-schools]~~ a school in the district; ~~[-and]~~

(b) Two pupils who attend a school in the district; and

(c) Four representatives, one from each of ~~[-four of]~~ the following professions, ~~[-or]~~ occupations ~~[-]~~ or backgrounds:

(1) Medicine or nursing;

(2) Counseling;

(3) Religion ~~[-]~~ ~~[-]~~ or spirituality; ~~[-for community life,]~~ and

(4) ~~{Pupils who attend schools in the district; or~~

(5) ~~Teaching. ~~{Education.}~~~~

→ ~~{This}~~ The board of trustees may appoint not more than three additional members to the advisory committee who are representatives of the community.

4. The advisory committee appointed pursuant to subsection 3 shall advise the ~~{district}~~ board of trustees concerning all aspects of the course of instruction established pursuant to this section, including : ~~f. without limitation.~~

(a) Instructors who have demonstrated an appropriate level of competency to teach a comprehensive, age-appropriate and medically accurate course of instruction in sex education;

(b) The content of and materials to be used in ~~{a}~~ the course of instruction ; ~~{established pursuant to this section.}~~ and ~~{the recommended}~~

(c) The ages of the pupils to whom each subject of the course ~~{is}~~ of instruction may be offered.

→ The final decision on these matters must be that of the board of trustees.

~~{3.}~~ 5. The subjects of the ~~{courses}~~ course of instruction may be taught only by a ~~f.~~

~~(a) A teacher or other professional educator or school f.~~

~~(b) A professional educator;~~

~~(c) A nurse f; or~~

~~(d) A provider of health care;~~

→ ~~as advised by the advisory committee pursuant to paragraph (a) of subsection 4 and whose qualifications have been previously approved by the board of trustees.}~~ who has been approved by the board of trustees as demonstrating an appropriate level of competency to teach a comprehensive, age-appropriate and medically accurate course of instruction in sex education. The board of trustees may authorize other instructors who demonstrate the same level of competency to teach the course of instruction if the board of trustees determines that the use of such other instructors is necessary.

~~{4.}~~ 6. The parent or guardian of each pupil to whom a course of instruction is offered pursuant to this section must first be furnished written notice that the course will be offered. The notice must be given in the usual manner used by the local district to transmit written material to parents, and unless the board of trustees adopts a policy pursuant to subsection 7, must contain ~~include~~ a form for the signature of the parent or guardian of the pupil consenting to ~~for~~ the pupil's attendance. Upon receipt of the written consent of the parent or guardian, the pupil may attend ~~four of~~ the course ~~{}~~ of instruction. If the written consent of the parent or guardian is not received ~~{}~~ ~~opts the pupil out of the course of instruction.}~~ and the board of trustees has not adopted a policy pursuant to subsection 7, the pupil must be excused from such attendance without any penalty as to credits or academic standing.

Any course of instruction offered pursuant to this section is not a requirement for graduation.

~~{5-}~~ 7. The board of trustees of a school district may adopt a policy to allow each pupil in the school district to attend a course of instruction that is offered pursuant to this section unless the parent or guardian of the pupil opts the pupil out of the course of instruction. If the parent or guardian opts the pupil out of the course of instruction, the pupil must be excused from such attendance without any penalty as to credits or academic standing.

8. All instructional materials to be used in a course of instruction offered pursuant to this section must be available for inspection by parents or guardians of pupils at reasonable times and locations before the course is taught, and appropriate written notice of the availability of the material must be furnished to all parents and guardians.

~~{8-}~~ 9. As used in this section:

(a) "Age-appropriate" means designed to teach concepts, information and skills based on the social, cognitive, emotional and experience level of most pupils of a particular age.

(b) "Comprehensive" means an abstinence-based curriculum of instruction on a full range of topics relating to human sexuality.

(c) "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

~~{(e)}~~ (d) "Medically accurate" means:

(1) Verified or supported by current or prevailing scientific evidence;

(2) Published by peer-reviewed scientific or medical journals; or

(3) Recognized as accurate and objective by a professional organization or agency, including ~~f, without limitation,~~ the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the American Academy of Pediatrics, the American Public Health Association or the American Congress of Obstetricians and Gynecologists.

~~f (d) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the laws of this State to administer health care in the ordinary course of business or practice of a profession.~~

(e) "Sex education" means a sexuality education program that builds a foundation of knowledge and skills relating to human development, relationships, decision-making, abstinence, contraception and disease prevention.

(f) "Sexual orientation" means having or being perceived as having an orientation of heterosexuality, homosexuality or bisexuality.

Sec. 2. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade

levels set forth in subsection 3, based upon the content of each course, that is expected of pupils for the following courses of study:

- (1) English, including reading, composition and writing;
- (2) Mathematics;
- (3) Science;
- (4) Social studies, which includes only the subjects of history, geography, economics and government;
- (5) The arts;
- (6) Computer education and technology;
- (7) Health ~~[-]~~, *including, without limitation, the course of instruction in sex education required by NRS 389.065*; and
- (8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:

(a) The ethical use of computers and other electronic devices, including, without limitation:

- (1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and
- (2) Methods to ensure the prevention of:
 - (I) Cyber-bullying;
 - (II) Plagiarism; and
 - (III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

- (1) Avoid harassment, cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

- (1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

- (2) The necessity for secure passwords or other unique identifiers;
- (3) The effects of a computer contaminant;
- (4) Methods to identify unsolicited commercial material; and
- (5) The dangers associated with social networking Internet sites; and
- (d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

4. The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

5. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

➡ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

6. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

7. As used in this section:

(a) "Computer contaminant" has the meaning ascribed to it in NRS 205.4737.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Electronic communication" has the meaning ascribed to it in NRS 388.124.

Sec. 3. This act becomes effective on July 1, 2013.

Senator Ford moved the adoption of the amendment.

Remarks by Senator Ford.

Thank you, Mr. President. Amendment No. 752 to Assembly Bill No. 230 restores the current policy requiring parents or guardians to "opt in" for sex education instruction for their child; under the revised language of the bill, school districts are authorized to adopt an "opt out" policy if they so choose.

The amendment also clarifies that parents or guardians of a pupil are to receive written notice and a form for the signed written consent for pupils to attend the course specified in the bill. It also deletes provisions allowing a provider of health care to deliver instruction in accordance

with the bill. Subject to school board approval, instructors must demonstrate certain competencies.

In addition, school boards may authorize other competent instructors if the board determines that using such instructors is needed. The amendment deletes references to the term "without limitation" throughout the bill. Also deleted is the reference to a community life representative serving on a school board's advisory council for courses in sex education.

Finally, the term "comprehensive" is defined to mean an abstinence-based curriculum of instruction on a full range of topics relating to human sexuality.

Amendment adopted.

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

Assembly Bill No. 286.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 695.

"SUMMARY—Requires the provision of emergency medical personnel and emergency medical services at the site of certain special events. (BDR 40-526)"

"AN ACT relating to emergency medical services; requiring a host organization of a special event to provide emergency medical personnel and emergency medical services at the site of the special event under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the provision of emergency medical services to persons in this State. (Chapter 450B of NRS) Sections 11 ~~11-13~~ and 12 of this bill ~~require the host organization of~~ provide that, in a county whose population is 100,000 or more (currently Clark and Washoe Counties), if a special event ~~that~~ is projected to be attended ~~for observed~~ by 2,500 or more persons but less than 50,000 persons at the same time, the host organization of the special event is required to provide ~~a first aid station at the site of the special event and a dedicated advanced life support ambulance~~ certain medical personnel and emergency medical services if certain factors apply to the special event. Section 13 of this bill requires that in all counties where a special event is projected to be attended by 50,000 or more persons at the same time, the host organization shall comply with the requirements for the provision of first-aid stations, dedicated advanced life support ambulances and certain medical personnel. The definition of "special event" set forth in section 10 of this bill excludes a ~~scheduled activity or~~ temporary event which is held at a location that: (1) is designed to host certain ~~scheduled activities and~~ temporary events; and (2) has permanently established methods of providing first-aid or emergency medical services at the location. Section 6 of this bill defines a "host organization" as the person who obtained the permit for the special event or, if a permit was not obtained for the special event, the person who sponsored the special event. ~~Sections 11-13 further~~

~~require the host organization of a special event to provide medical personnel at the site of the special event.]~~ The number of first-aid stations, dedicated advanced life support ambulances and medical personnel and the level of skill of the medical personnel required varies based on the number of persons who are projected to attend ~~[or observe]~~ the special event and certain other factors.

Existing law provides that a violation of the provisions which govern emergency medical services is a misdemeanor. Existing law further authorizes the Health Division of the Department of Health and Human Services to impose an administrative penalty against any person who violates those provisions. (NRS 450B.900) Those penalties are applicable to a violation of the provisions of sections 11-13.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *"Automated external defibrillator" or "defibrillator" means a medical device that:*

- 1. Has been approved by the United States Food and Drug Administration;*
- 2. Is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia in a patient;*
- 3. Is capable of determining, without intervention by the operator of the device, whether defibrillation should be performed on a patient;*
- 4. Upon determining that defibrillation should be performed on a patient, automatically charges and requests delivery of an electrical impulse to the patient's heart; and*
- 5. Upon appropriate action by the operator of the device, delivers an appropriate electrical impulse to the patient's heart.*

Sec. 3. *As used in sections 3 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Dedicated advanced life support ambulance" means an ambulance equipped to provide advanced life support that:*

- 1. Is capable of transporting a patient from a special event to a hospital but, upon delivering the patient, immediately returns to the site of the special event; and*
- 2. Is staffed by:*
 - (a) At least one advanced emergency medical technician and intermediate emergency medical technician; or*
 - (b) At least two other attendants, each with an equivalent or a higher level of skill than the levels described in paragraph (a).*

Sec. 5. *"First-aid station" means a fixed location at the site of a special event that is staffed by at least one emergency medical technician or a person*

with a higher level of skill who is capable of providing emergency medical care within his or her scope of practice.

Sec. 6. "Host organization" means:

1. If a permit was obtained for a special event, the person who obtained the permit; or
2. If a permit was not obtained for a special event, the person who sponsored the special event.

Sec. 7. "Roving emergency medical technician team" means a team at the site of a special event that:

1. Consists of two or more emergency medical technicians, intermediate emergency medical technicians or advanced emergency medical technicians; and
2. Has the medical supplies necessary to provide emergency medical care.

Sec. 8. "Roving intermediate emergency medical technician team" means a roving emergency medical team that consists of two or more intermediate emergency medical technicians or advanced emergency medical technicians.

Sec. 9. "Significant number" means, with regard to:

1. Contacts by emergency medical personnel with persons who attended ~~for observed~~ a special event, the number of contacts is 0.07 percent or more of the total number of persons who attended ~~for observed~~ the special event; and
2. Patients transported to a hospital, the number of patients transported from the special event to the hospital by ambulance or private vehicle is 15 percent or more of the total number of contacts at the special event by emergency medical personnel with persons who attended ~~for observed~~ the special event.

Sec. 10. "Special event" means a ~~scheduled activity or~~ temporary event, including, without limitation, a concert or sporting event, ~~that is projected to be attended or observed by~~ at which 2,500 or more persons ~~are projected to be in attendance at the same time.~~ The term does not include a ~~scheduled activity or~~ temporary event held at a location which is designed to host concerts, sporting events, conventions, trade shows and any other similar events and which has permanently established methods for providing first-aid or emergency medical services at the location.

Sec. 11. 1. ~~For~~ In a county whose population is 100,000 or more, if a special event ~~is projected to be attended or observed by~~ at which 2,500 or more persons but less than 10,000 persons, ~~are projected to be in attendance at the same time,~~ the host organization shall provide at least one first-aid station at the site of the special event if:

- (a) The special event is a concert; or
- (b) Three or more of the following factors apply to the special event:
 - (1) The special event involves a high-risk activity, including, without limitation, sports or racing.

(2) *The special event poses environmental hazards to persons attending ~~for observing~~ the special event or is held during a period of extreme heat or cold.*

(3) *The average age of the persons attending ~~for observing~~ the special event is less than 25 years of age or more than 50 years of age.*

(4) *A large number of the persons attending ~~for observing~~ the special event have acute or chronic illnesses.*

(5) *Alcohol is sold at the special event or, if the special event has been held before, there is a history of alcohol or drug use by the persons who attended ~~for observed~~ the special event in the past.*

(6) *The density of the number of persons attending ~~for observing~~ the special event increases the difficulty regarding:*

(I) *Access to the persons who are attending ~~for observing~~ the special event who require emergency medical care; or*

(II) *The transfer of those persons who require emergency medical care to an ambulance.*

2. ~~FFF~~ *In a county whose population is 100,000 or more, if the host organization meets the requirements of paragraph (a) or (b) of subsection 1 and ~~the special event is projected to be attended or observed by~~ 10,000 or more persons but less than 15,000 persons, ~~it~~ are projected to be in attendance at the special event at the same time, the host organization shall:*

(a) *Provide at least one first-aid station at the site of the special event and equip the first-aid station with an automated external defibrillator; and*

(b) *Provide a roving emergency medical technician team at the site of the special event.*

3. ~~FFF~~ *In a county whose population is 100,000 or more, if the host organization meets the requirements of paragraph (a) or (b) of subsection 1 and ~~the special event is projected to be attended or observed by~~ 15,000 or more persons but less than 50,000 persons, ~~it~~ are projected to be in attendance at the special event at the same time, the host organization shall:*

(a) *Provide at least one first-aid station at the site of the special event and staff the first-aid station with at least one registered nurse, licensed practical nurse or advanced emergency medical technician in lieu of an emergency medical technician; and*

(b) *Provide two or more roving intermediate emergency medical technician teams at the site of the special event.*

Sec. 12. 1. ~~FFF~~ *In a county whose population is 100,000 or more, if a special event ~~is projected to be attended or observed by~~ at which 2,500 or more persons but less than 15,000 persons, ~~it~~ are projected to be in attendance at the same time, the host organization shall provide at least one dedicated advanced life support ambulance at the special event if the special event:*

(a) *Is located more than 5 miles from the closest hospital; or*

(b) *Has been held before and there is a history of a significant number of:*

(1) *Contacts by emergency medical personnel with persons who attended ~~for observed~~ the special event to provide emergency medical care to those persons; or*

(2) *Persons who attended ~~for observed~~ the special event who were transported as patients from the special event to a hospital.*

2. ~~For~~ *In a county whose population is 100,000 or more, if the host organization meets the requirements of paragraph (a) or (b) of subsection 1 and ~~the special event is projected to be attended or observed by~~ 15,000 or more persons but less than 50,000 persons, ~~it~~ are projected to be in attendance at the special event at the same time, the host organization shall provide at least two dedicated advanced life support ambulances at the special event.*

Sec. 13. *If a special event ~~is projected to be attended or observed by~~ at which 50,000 or more persons ~~it~~ are projected to be in attendance at the same time, the host organization shall provide:*

1. *Two or more first-aid stations at the site of the special event;*
2. *Two or more physicians licensed pursuant to chapter 630 or 633 of NRS;*
3. *Two or more roving emergency medical technician teams; and*
4. *Two or more dedicated advanced life support ambulances.*

Sec. 14. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 15. NRS 450B.595 is hereby repealed.

TEXT OF REPEALED SECTION

450B.595 "Automated external defibrillator" and "defibrillator" defined. As used in NRS 450B.595 to 450B.620, inclusive, unless the context otherwise requires, "automated external defibrillator" or "defibrillator" means a medical device that:

1. Has been approved by the United States Food and Drug Administration;
2. Is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia in a patient;
3. Is capable of determining, without intervention by the operator of the device, whether defibrillation should be performed on a patient;
4. Upon determining that defibrillation should be performed on a patient, automatically charges and requests delivery of an electrical impulse to the patient's heart; and
5. Upon appropriate action by the operator of the device, delivers an appropriate electrical impulse to the patient's heart.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 695 to Assembly Bill No. 286 limits the requirement for the host organization to provide, under certain circumstances, medical personnel

and emergency medical services for special events to counties whose population is 100,000 or more, currently Clark and Washoe County, if the event is projected to be attended by 2,500 or more persons but less than 50,000 people at the same time. It also specifies all counties where a special event is projected to be attended by 50,000 people or more at the same time must comply with the provisions related to first-aid stations, dedicated advanced life support ambulances and certain medical personnel.

Amendment adopted.

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

Assembly Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 740.

"SUMMARY—~~[Prohibits the tracking of a mobile phone by an investigative or law enforcement officer without a court order in certain circumstances.]~~ Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice. (BDR 14-421)"

"AN ACT relating to criminal procedure; ~~[generally prohibiting an investigative or law enforcement officer from tracking a mobile phone without a court order; authorizing certain investigative or law enforcement officers to apply to the district court for such an order or extension thereof; authorizing district courts to enter an order authorizing the tracking of a mobile phone in certain circumstances;]~~ creating a statutory subcommittee of the Advisory Commission on the Administration of Justice to consider issues concerning electronic surveillance by law enforcement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~f Section 4 of this bill authorizes an investigative or law enforcement officer who is responsible for an ongoing criminal investigation to apply to the district court for an order or an extension of an order which authorizes the tracking of a mobile phone. Section 5 of this bill authorizes the district court to enter an ex parte order authorizing the tracking of a mobile phone if the court determines that there is probable cause for belief that the information likely to be obtained by such tracking is relevant to the ongoing criminal investigation. Such an order or extension of an order cannot exceed 30 days. Section 3 of this bill generally prohibits an investigative or law enforcement officer from tracking a mobile phone without obtaining such an order.]~~

This bill creates in statute the Subcommittee on Search and Seizure Law and Technology of the Advisory Commission on the Administration of Justice. This bill requires: (1) the Chair of the Commission to appoint the members of the Subcommittee; (2) that the Subcommittee consist of legislative members and certain nonlegislative members; (3) the Chair of the Subcommittee to be a legislative member of the Commission; and (4) the Subcommittee to consider issues concerning electronic surveillance by law enforcement and to evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed

legislation. This bill also sets forth the salaries and per diem that members of the Subcommittee may receive.

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

Delete existing sections 1 through 5 of this bill and replace with the following new sections 1 through 3:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on Search and Seizure Law and Technology of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:

(a) A representative of the public defender's office in Washoe County.

(b) A representative of the public defender's office in Clark County.

(c) A representative of the State Public Defender's Office.

(d) A member of the private criminal defense bar.

(e) A representative of a civil liberties organization.

(f) A representative of the district attorney's office in Washoe County.

(g) A representative of the district attorney's office in Clark County.

(h) A representative of the Attorney General.

(i) A representative of a law enforcement agency located within the jurisdiction of Washoe County.

(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.

(k) A representative of the academic community with specialized knowledge in the field of search and seizure law and technology.

(l) A representative from the compliance division of a national telecommunications carrier authorized to do business in this State.

3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues concerning electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices, and shall evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature

during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 1 of this act, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. This act becomes effective on July 1, 2013, and expires by limitation on July 31, 2015.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 740 to Assembly Bill No. 313 deletes all sections of the bill relating to tracking a mobile phone and instead creates in statute the Subcommittee on Search and Seizure Law and Technology of the Advisory Commission on the Administration on Justice.

Amendment adopted.

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

Assembly Bill No. 348.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 694.

"SUMMARY—Revises provisions relating to foster care. (BDR 38-457)"

"AN ACT relating to foster care; establishing certain requirements for the operation of a foster care agency; requiring a foster care agency to create and maintain reports on its programs and services; allowing a foster care agency to encourage and assist a potential foster home to apply for a license; requiring a contract between a foster care agency and a provider of foster care with which the foster care agency places a child; requiring a foster care agency to provide certain services to each foster home in which the foster care agency places children; providing for the operation of independent living foster homes; ~~allowing a licensing authority to suspend or revoke the license of a provider of foster care in certain circumstances;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Division of Child and Family Services of the Department of Health and Human Services is required to adopt regulations relating to the licensure and operation of foster homes and foster care agencies. (NRS 424.020, 424.093) Sections 4-6 of this bill establish certain requirements for the governance of a foster care agency. Sections 8-14 of this bill establish certain requirements for owners, members of the governing

body, employees, paid consultants, contractors, volunteers and vendors of a foster care agency. Section 15 of this bill requires a foster care agency to create and maintain an annual report on each program or service the agency provides. Section 16 of this bill allows a foster care agency to identify potential foster homes and encourage a potential foster home to apply for licensure. Section 17 of this bill requires a foster care agency to coordinate the submission of applications for licensure as a foster home to the licensing authority and to conduct a home study of each applicant. Section 18 of this bill requires a foster care agency to execute a contract containing certain provisions with each provider of foster care with whom the foster care agency places a child and to make each such contract available to the licensing authority upon request. Sections 19 and 20 of this bill require a foster care agency which places children in a specialized foster home or an independent living foster home to develop and implement certain provisions relating to the care the foster home provides. Section 21 of this bill requires a foster care agency to provide support to and to review and evaluate its contracted foster homes. Sections 22 and 23 of this bill require a foster care agency to make crisis intervention available to its contracted foster homes and to report certain potential violations to the licensing authority. Section 24 of this bill: (1) prohibits a foster care agency from accepting certain children for placement in certain circumstances; and (2) requires a foster care agency to give priority to assisting with the placement of children from an agency which provides child welfare services or a juvenile court. Section 25 of this bill requires a foster care agency to monitor and evaluate its programs and services and implement any necessary improvements to its programs and services revealed by its evaluations. Section 26 of this bill allows the licensing authority to charge and collect certain fees from a foster care agency.

Section 35 of this bill prohibits a foster home from accepting a child placed by a juvenile court without the approval of the licensing authority. Section 35 also requires a specialized foster home or a group foster home to maintain a policy of general liability insurance. Section 36 of this bill revises the crimes that preclude a person from being employed by or being a resident of a foster home. Section 44 of this bill allows a licensing authority to release certain information at the request of a provider of foster care upon the payment of a fee to cover the costs of the licensing authority in gathering that information. ~~[Section 45 of this bill allows a licensing authority to suspend or revoke the license of a provider of foster care in certain circumstances.]~~

Sections 2, 34, 35, 38, 41, 42, 48, 50 and 54 of this bill provide for the licensing and regulation of independent living foster homes.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this act.

Sec. 2. *"Independent living foster home" means a foster home which provides assistance with the transition to independent living for children who have entered into an agreement to transition to independent living and for children who:*

- 1. Are at least 16 years of age but less than 18 years of age or who remain under the jurisdiction of a court pursuant to NRS 432B.594;*
- 2. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and*
- 3. Are received, cared for and maintained for compensation or otherwise, including the provision of free care.*

Sec. 3. *"Juvenile court" has the meaning ascribed to it in NRS 62A.180.*

Sec. 4. 1. *A foster care agency must:*

(a) Be organized as a business entity that is registered with the Secretary of State and holds a valid state business license pursuant to chapter 76 of NRS;

(b) Have a governing body, at least one member of which has knowledge of and experience in the programs and services offered by the foster care agency; and

(c) Operate under articles of incorporation.

2. The governing body of a foster care agency must have a written constitution or bylaws which prescribe the responsibility for the operation and maintenance of the foster care agency and which must include, without limitation, provisions that:

(a) Define the qualifications for and types of membership on the governing body;

(b) Specify the process for selecting members of the governing body, the terms of office for the members and officers of the governing body and orientation for new members of the governing body;

(c) Specify how frequently the governing body must meet; and

(d) Specify prohibited conflicts of interest of members of the governing body and employees, volunteers and independent contractors of the foster care agency.

3. The governing body of a foster care agency shall appoint a person to provide oversight of the foster care agency who meets the qualifications described in section 8 of this act.

4. If the foster care agency is organized in another state, the governing body must meet at least once each year within this State or have a subcommittee whose members are residents of this State, one of whom is a member of the governing body, which is responsible to the governing body for ensuring that the foster care agency complies with the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 5. *The governing body of a foster care agency must be responsible for:*

- 1. Ensuring that the foster care agency is and remains fiscally sound;*

2. *Overseeing the management and operations of the programs and services offered by the foster care agency;*

3. *Ensuring that the foster care agency remains in compliance with the rules and policies of the governing body; and*

4. *Ensuring that the foster care agency complies with the provisions of this chapter and any regulations adopted pursuant thereto.*

Sec. 6. *The governing body shall submit annually to the licensing authority or its designee:*

1. *The name, address, contact information, position held on the governing body and any other information required by the licensing authority of each member of the governing body;*

2. *A copy of the articles of incorporation, constitution and bylaws of the foster care agency;*

3. *Evidence satisfactory to the licensing authority that the foster care agency has the ability to financially support and sustain its activities, which may include, without limitation, financial statements and budgets;*

4. *A report from an independent auditor of the complete financial information for the foster care agency for the immediately preceding fiscal year;*

5. *A statement of purpose; and*

6. *An organizational chart or other chart that sets forth the structure of the foster care agency which includes, without limitation, a job description for each position listed in the chart.*

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. *The person appointed to provide oversight of a foster care agency by the governing body of the foster care agency pursuant to section 4 of this act must have:*

(a) *A bachelor's degree or more advanced degree from an accredited college or university; and*

(b) *At least 7 years of experience in an agency or program which provides social services, including at least 3 years of experience as an administrator, supervisor or consultant.*

2. *The person appointed to provide oversight of a foster care agency is responsible for the day-to-day operations of the foster care agency, including, without limitation, employing such staff as he or she deems necessary to provide administrative services and services to families and children. The staff may include, without limitation:*

(a) *Program supervisors who are responsible for the supervision of members of the staff and activities relating to foster care and for assisting in formulating and carrying out the policies and programs of the foster care agency. Each program supervisor must have a bachelor's degree or more advanced degree from an accredited college or university and at least 3 years of experience in providing services to children and their families, including at least 1 year of experience as an administrator or supervisor.*

(b) Caseworkers who support the operations of the foster care agency, including, without limitation, to work with children and families, perform home studies, support service plans for individualized cases and treatments, prepare and maintain records and coordinate services for children and families. Each caseworker must have:

(1) A bachelor's degree from an accredited college or university in the field of social work or a field related to social work, which may include, without limitation, psychology, sociology, education or counseling; or

(2) A bachelor's degree from an accredited college or university in any field and at least 2 years of experience in providing services to children and their families.

Sec. 9. 1. The foster care agency may accept volunteers to provide certain specified services for the foster care agency. The foster care agency shall not rely solely upon volunteers to provide any service.

2. If the foster care agency accepts volunteers pursuant to subsection 1, the foster care agency must have a written plan for the selection, training, supervision and assignment of volunteers, and each volunteer who performs an activity that would otherwise be performed by a member of the staff must meet the same qualifications that would be required for the member of the staff.

Sec. 10. 1. The foster care agency shall develop and carry out a written plan for the orientation, training, supervision and evaluation of members of the staff.

2. The orientation must include, without limitation, information on the policies and procedures of the foster care agency, goals for the programs and services of the foster care agency, the responsibilities of members of the staff and the provisions of this chapter and the regulations adopted pursuant to thereto that relate to licensing. The training must include, without limitation, any training required by the licensing authority. Each member of the staff must be evaluated at least once each year.

3. The foster care agency shall maintain comprehensive written policies and procedures for the personnel, services and programs of the foster care agency and make the policies and procedures readily available to the members of the staff and to the licensing authority.

4. The foster care agency shall maintain comprehensive records for personnel that, upon request, must be made available to the licensing authority.

Sec. 11. 1. The licensing authority or a person designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for or holder of a license to conduct a foster care agency and each owner, member of the governing body, employee, paid consultant, contractor, volunteer or vendor of that applicant or licensee who may come into direct contact with a child placed by the foster care agency, to determine whether the person

investigated has been arrested for, has charges pending for or has been convicted of:

- (a) Murder, voluntary manslaughter or mayhem;*
- (b) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon;*
- (c) Assault with intent to kill or to commit sexual assault or mayhem;*
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime or a felony relating to prostitution;*
- (e) Abuse or neglect of a child or contributory delinquency;*
- (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;*
- (g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;*
- (h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years;*
- (i) Any offense relating to pornography involving minors, including, without limitation, a violation of any provision of NRS 200.700 to 200.760, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;*
- (j) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punishable as a misdemeanor, within the immediately preceding 7 years;*
- (k) A crime involving domestic violence that is punishable as a felony;*
- (l) A crime involving domestic violence that is punishable as a misdemeanor, within the immediately preceding 7 years;*
- (m) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;*
- (n) Any offense involving the sale, furnishing, purchase, consumption or possession of alcoholic beverages by a minor, including, without limitation, a violation of any provision of NRS 202.015 to 202.067, inclusive, or driving a vehicle under the influence of alcohol or a controlled substance in violation of chapter 484C of NRS or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years; or*
- (o) An attempt or conspiracy to commit any of the offenses listed in this subsection within the immediately preceding 7 years.*

2. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

3. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has

been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to this section shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person is completed.

4. The licensing authority or its designee shall conduct an investigation of each holder of a license to conduct a foster care agency and each owner, member of a governing body, employee, paid consultant, contractor, volunteer or vendor who may come into direct contact with a child placed by the foster care agency pursuant to this section at least once every 5 years after the initial investigation.

Sec. 12. 1. Each applicant for or holder of a license to conduct a foster care agency, and each owner, member of the governing body, employee, paid consultant, contractor, volunteer or vendor of that applicant or licensee who may come into direct contact with a child placed by the foster care agency, must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to section 11 of this act; and

(b) Written permission to conduct a child abuse and neglect screening.

2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

4. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

5. Upon receiving a report pursuant to this section, the licensing authority or its approved designee shall determine whether the person has been arrested for, has charges pending for or has been convicted of a crime listed in section 11 of this act.

6. The licensing authority shall immediately inform the foster care agency whether an owner, member of the governing body, employee, paid consultant, contractor, volunteer or vendor of the foster care agency who may come into direct contact with a child placed by the foster care agency has been arrested for, has charges pending for or has been convicted of a crime listed in section 11 of this act.

Sec. 13. 1. Upon receiving information from the licensing authority or its approved designee pursuant to section 12 of this act or evidence from any

other source that an owner, member of the governing body, employee, consultant, contractor, volunteer or vendor of a foster care agency who may come into direct contact with a child placed by the foster care agency has been arrested for, has charges pending for or has been convicted of a crime listed in section 11 of this act, the foster care agency shall terminate the employment, contract or volunteer activities of the person after allowing the person time to correct the information as required pursuant to subsection 2.

2. If a person believes that the information provided about him or her pursuant to subsection 1 is incorrect, the person must inform the foster care agency immediately. A foster care agency that is so informed shall give the person 30 days to correct the information.

3. During the period in which a person seeks to correct information pursuant to subsection 2, it is within the discretion of the foster care agency whether to allow the person to continue to be associated with the foster care agency, except that the person must not have contact with a child in any foster home without supervision during any such period.

Sec. 14. A member of the governing body, employee, consultant, contractor, volunteer or vendor of a foster care agency may not:

1. Be a provider of foster care who has a contract with the foster care agency for the placement of children unless approved by the licensing authority; or

2. Be a biological parent of a child in the custody of an agency which provides child welfare services or of a child placed by a juvenile court in a foster home operated by the foster care agency.

Sec. 15. 1. A foster care agency shall create and maintain an annual report concerning each program or service provided by the foster care agency.

2. The report must include, without limitation, a description of each program or service provided by the foster care agency, the goals for the program or service relating to family foster homes, specialized foster homes, independent living foster homes and group foster homes and information relating to any special populations of children served, including, without limitation, children who require special care for physical, mental or emotional issues or who were placed in a foster home by a juvenile court.

Sec. 16. 1. A foster care agency may identify potential foster homes and encourage a potential foster home to apply to the licensing authority for a license to conduct a foster home.

2. A foster care agency shall ensure that each person with whom it contracts as a provider of foster care receives any training required by the provisions of this chapter or by the licensing authority, including, without limitation, specific training to meet the needs of a population that requires specific services.

Sec. 17. 1. A foster care agency shall coordinate the submission of applications for the licensing of prospective foster homes with the licensing authority.

2. *A foster care agency shall conduct a fair and impartial investigation of the home and standards of care for each prospective foster home.*

3. *Upon receiving a completed application for a prospective foster home from a foster care agency, the licensing authority must review the qualifications of the prospective foster home to be licensed pursuant to NRS 424.030.*

4. *The licensing authority may provide any training it determines to be necessary to a foster care agency for the foster care agency to fulfill the provisions of this section.*

Sec. 18. 1. *A foster care agency may not assist an agency which provides child welfare services or a juvenile court in the placement of a child in foster care unless a contract exists between the foster care agency and the provider of foster care for the placement of children. Such a contract must include, without limitation, provisions that:*

(a) Allow the provider of foster care to change its affiliation with the foster care agency or to terminate its affiliation with the foster care agency and become affiliated with a different foster care agency.

(b) Specify the type of foster home and related services that the provider of foster care will provide on behalf of the foster care agency, including, without limitation, the services that each party agrees to provide for foster children, biological families and foster families.

(c) Specify the financial responsibilities of each party, including, without limitation, payment for both foster care and for any other expenses or services rendered, including, without limitation, providing clothing for children in its care.

(d) Waive the right of the provider of foster care to confidentiality relating to any investigations for licensing or child protective services and allow the agency which provides child welfare services and the licensing authority to share any related information about an investigation with the foster care agency after the investigation is completed.

(e) State how emergencies which occur during and outside regular business hours will be handled.

(f) Require arrangements to be made for foster children to have visitation with their biological families.

(g) Describe expectations which ensure that children will receive appropriate medical, dental, mental health, psychological and psychiatric treatment, including, without limitation, how transportation will be provided.

(h) Require the provider of foster care to adhere to the provisions of this chapter and the regulations adopted pursuant thereto relating to licensing.

(i) State that the parties agree that the licensing authority maintains the responsibility to protect the best interests of each child, which may include removing a child from the placement with the provider of foster care if the licensing authority determines that removal is in the best interests of the child.

(j) Include the acknowledgment by the parties of any provisions determined to be appropriate by the licensing authority.

2. The foster care agency, upon request, shall make each such contract available to the licensing authority within a reasonable period after receiving its request.

Sec. 19. 1. A foster care agency which places children in a specialized foster home shall develop and carry out written policies and procedures relating to children placed in specialized foster homes which must include, without limitation:

(a) The service and treatment philosophy of the foster care agency for children with physical, mental or emotional issues and children who are placed in a specialized foster home by a juvenile court;

(b) Specific treatment techniques that the foster care agency plans to approve for use with children described in paragraph (a) and their families;

(c) Specific strategies for behavior management that the foster care agency will allow providers of foster care to use with children described in paragraph (a); and

(d) Adequate staffing to provide the intensity of services required when caring for children described in paragraph (a).

2. A foster care agency shall require a provider of foster care to serve as an active participant in the treatment or care plan of a child who is placed in a specialized foster home. The foster care agency shall:

(a) Provide services to support the provider of foster care in reducing barriers in caring for and supporting any children placed in a specialized foster home;

(b) Arrange or provide support for the provider of foster care to arrange for the child to receive appropriate clinical services, including, without limitation, psychiatric, psychological and medication management services; and

(c) Ensure cooperation between the employees of the foster care agency, the provider of foster care, the child and the biological family of the child in meeting the goals of the child's treatment plan.

3. A foster care agency which places children in a specialized foster home shall have a written plan for alternative care in the event of an emergency if the placement of the child into a specialized foster home disrupts that specialized foster home.

Sec. 20. 1. A foster care agency which places children in an independent living foster home shall develop and implement written policies and procedures relating to children placed in independent living foster homes which must include, without limitation:

(a) A process for ensuring that a potential location for an independent living arrangement meets any standards required by the licensing authority and is evaluated on a regular basis to ensure that it continues to meet such standards;

(b) *A procedure for approving a location for an independent living arrangement;*

(c) *Criteria and procedures for intake and admission into the independent living foster home and discharge from the independent living foster home, including, without limitation, procedures to ensure that the child will be discharged into the care of his or her legal guardian if he or she is less than 18 years of age at the time of his or her discharge;*

(d) *The conditions under which a child may be discharged from the independent living foster home, including, without limitation, criteria and procedures for implementing an emergency discharge of the child;*

(e) *Criteria and procedures for terminating the approval of a location for an independent living arrangement;*

(f) *A detailed plan for determining and maintaining the supervision and visitation of each child after he or she has been placed in a location for an independent living arrangement; and*

(g) *The types of services that the provider of foster care will obtain or provide to meet the needs of the child during the placement.*

2. *A foster care agency which places children in an independent living foster home shall coordinate with the provider of foster care to:*

(a) *Ensure that each child is enrolled in academic, vocational education or career and technical education services appropriate to meet the needs of the child;*

(b) *Monitor the educational progress of each child as often as necessary;*

(c) *Assist each child in obtaining routine and emergency medical care and dental care;*

(d) *Evaluate the needs of each child for financial assistance upon intake and monthly thereafter or more often if necessary;*

(e) *Provide the resources to meet the basic needs of each child, including, without limitation, clothing, food and shelter;*

(f) *Provide assistance to each child in locating, securing and maintaining employment;*

(g) *Provide training in life skills to meet the needs of each child;*

(h) *Support each child who remains under the jurisdiction of a court pursuant to NRS 432B.594; and*

(i) *Obtain and provide a system for responding to a crisis that is accessible to the child 24 hours a day, 7 days a week, including holidays, and provide training to each child on how to access and use the system.*

3. *A foster care agency which places children in an independent living foster home shall provide an orientation and training to each child admitted to its program for independent living.*

Sec. 21. 1. *A foster care agency shall provide support to each foster home with which the foster care agency has a contract for the placement of children in arranging for and accessing medical, dental, mental health, psychological and psychiatric treatment for children. The foster care agency shall ensure that each child placed in a foster home with which the foster*

care agency has a contract for the placement of children receives appropriate treatment and may exercise any rights granted pursuant to this chapter or chapter 432B of NRS that are necessary to discharge this duty. The foster care agency shall ensure that the provider of foster care provides medical records and any related documentation to the licensing authority or its designee.

2. A foster care agency shall ensure that each child in its care has his or her own supply of clothing appropriate for indoors and outdoors that is in good condition and suitable for the season.

3. When a foster home with which the foster care agency has a contract for the placement of children does not have any children placed in the home, the foster care agency must visit the home at least once every 60 days to review whether it remains in compliance with the requirements of this chapter and any regulations adopted pursuant thereto and, when necessary, notify the licensing authority of any potential violations.

4. In addition to any other review that a foster care agency performs of a foster home with which the foster care agency has a contract for the placement of children, a foster care agency shall conduct a review of the foster home any time a critical event occurs in that home and report the event to the licensing authority. As used in this subsection, "critical event" includes, without limitation:

- (a) The death or disability of a family member;
- (b) The sudden onset of a health condition that may impair the ability of a provider of foster care to care for the child;
- (c) A change in marital status;
- (d) A change in home address;
- (e) A sudden or substantial loss of income; and
- (f) The birth of a child.

5. A foster care agency shall conduct an evaluation of each foster home with which the foster care agency has a contract for the placement of children at least once each year and submit the results of the evaluation to the licensing authority or its designee. The evaluation must include:

(a) An interview with the provider of foster care and an assessment of the ability of the provider of foster care to relate to children, to help children reach their personal and educational goals, to work with children with particular issues and needs, to establish and maintain a consistent and stable environment with children and to work with biological families to support reunification to the extent that reunification is determined to be consistent with the plan for the permanent placement of the child pursuant to NRS 432B.393.

(b) An interview with each child placed in the foster home that includes a description of the relationship between each child placed in the foster home and each family member; and

(c) A detailed review of each instance where a child was placed in the

foster home and subsequently removed from the home and a description of the reasons for the removal.

Sec. 22. 1. *A foster care agency shall provide crisis intervention and assistance 24 hours a day, 7 days a week, including holidays, to each foster home with which the foster care agency has a contract for the placement of children.*

2. *Employees of the foster care agency who provide crisis intervention and assistance must be trained in and competent to handle a crisis situation and to provide necessary services to children and families to ensure child safety, permanency and well-being. The foster care agency shall train and encourage each provider of foster care to use techniques to support positive behavior that emphasize principles and methods to help children achieve desired behavior in a constructive and safe manner.*

Sec. 23. 1. *A provider of foster care shall not use physical restraint on a child placed with the provider unless the child presents an imminent threat of danger of harm to himself or herself or others.*

2. *A foster care agency shall notify the licensing authority or its designee when any serious incident, accident or injury occurs to a child in its care within 24 hours after the incident, accident or injury. The foster care agency shall provide a written report to the licensing authority or its designee as soon as practicable after notifying the licensing authority or its designee. The written report must include, without limitation, the date and time of the incident, accident or injury, any action taken as a result of the incident, accident or injury, the name of the employee of the foster care agency who completed the written report and the name of the employee of the licensing authority or its designee who was notified.*

3. *A foster care agency shall report any potential violation of the provisions of this chapter or any regulations adopted pursuant thereto relating to licensing to the licensing authority within 24 hours after an employee of the foster care agency becomes aware of the potential violation. A foster care agency shall cooperate with the licensing authority in its review of such reports and support each foster home with which the foster care agency has a contract for the placement of children in completing any action required to correct a violation.*

4. *A foster care agency shall fully comply with any investigation of a report of the abuse or neglect of a child pursuant to NRS 432B.220.*

Sec. 24. 1. *A foster care agency shall notify the licensing authority before the foster care agency authorizes the placement of a child who is not being placed through the licensing authority or a juvenile court.*

2. *A foster care agency may not agree to place a child who is relocating from another state unless the foster care agency first consults the licensing authority to determine whether the provisions of the Interstate Compact on the Placement of Children pursuant to NRS 127.320 to 127.350, inclusive, or the Interstate Compact for Juveniles pursuant to NRS 62I.015 apply. If the licensing authority determines that the provisions of either Compact apply,*

the foster care agency may not agree to place the child unless the placement would not violate the provisions of the Compact.

3. A foster care agency shall give priority to assisting with the placement of a child by an agency which provides child welfare services or a juvenile court.

Sec. 25. 1. Each foster care agency shall develop and carry out a written plan to monitor and evaluate the quality and effectiveness of its programs and services on a systemic and ongoing basis.

2. The written plan must describe the methods for the collection, summarization and analysis of data and information and include factors defined by the licensing authority for assessing the effectiveness of the programs and services provided.

3. If the findings of an evaluation suggest that improvements to its programs and services should be made, the foster care agency shall implement any necessary improvements.

Sec. 26. If, after investigation, a complaint regarding the licensing of a foster home with which the foster care agency has a contract for the placement of children or a report of the abuse or neglect of a child by the foster care agency or a foster home with which the foster care agency has a contract for the placement of children is determined to be substantiated or supported by evidence and any action is taken against the licensee, including, without limitation, the issuance of a plan of corrective action, the licensing authority may charge and collect from a foster care agency a reasonable fee for the cost of investigating the complaint or report. Any fee so charged must be based on the actual costs of the licensing authority in investigating the complaint or report.

Sec. 27. NRS 424.010 is hereby amended to read as follows:

424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.012 to 424.018, inclusive, and sections 2 and 3 of this act have the meanings ascribed to them in those sections.

Sec. 28. NRS 424.013 is hereby amended to read as follows:

424.013 "Family foster home" means a family home in which one to six children who are under 18 years of age or who remain under the jurisdiction of a court pursuant to NRS 432B.594 and who are not related within the first degree of consanguinity or affinity to the person or persons maintaining the home are received, cared for and maintained, for compensation or otherwise, including the provision of ~~permanent~~ free care. The term includes a family home in which such a child is received, cared for and maintained pending completion of proceedings for the adoption of the child by the person or persons maintaining the home.

Sec. 29. NRS 424.0135 is hereby amended to read as follows:

424.0135 "Foster care agency" means a ~~nonprofit corporation, for-profit corporation or sole proprietorship~~ business entity that ~~assists~~ recruits and enters into contracts with foster homes to assist an agency which provides

child welfare services *and juvenile courts* in the placement of children in such foster ~~[care-]~~ homes.

Sec. 30. NRS 424.014 is hereby amended to read as follows:

424.014 "Foster home" means a home that receives, nurtures, supervises and ensures routine educational services and medical, dental and mental health treatment for children. The term includes a family foster home, specialized foster home, independent living foster home and group foster home.

Sec. 31. NRS 424.015 is hereby amended to read as follows:

424.015 "Group foster home" means a ~~[natural person, partnership, firm, corporation or association who]~~ foster home which provides full-time care and services for 7 to 15 children who are:

1. Under 18 years of age or who remain under the jurisdiction of a court pursuant to NRS 432B.594;

2. Not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

3. Received, cared for and maintained for compensation or otherwise, including the provision of ~~[permanent]~~ free care.

Sec. 32. NRS 424.017 is hereby amended to read as follows:

424.017 "Provider of ~~[family]~~ foster care" means a person who is licensed to conduct a ~~[family]~~ foster home pursuant to NRS 424.030.

Sec. 33. NRS 424.018 is hereby amended to read as follows:

424.018 "Specialized foster home" means a ~~[family]~~ foster home which provides full-time care and services for one to six children who:

1. Require special care for physical, mental or emotional issues;

2. Are under ~~[21]~~ 18 years of age ~~[or who remain under the jurisdiction of a court pursuant to NRS 432B.594];~~

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

4. Are received, cared for and maintained for compensation ~~[and~~

~~5. Are in the custody of and placed in the home by an agency which provides child welfare services.]~~ or otherwise, including the provision of free care.

Sec. 34. NRS 424.020 is hereby amended to read as follows:

424.020 1. The Division, in consultation with each licensing authority in a county whose population is 100,000 or more, shall adopt regulations to:

(a) Establish procedures and requirements for the licensure of family foster homes, specialized foster homes, independent living foster homes and group foster homes; and

(b) Monitor such licensure.

2. The Division, in cooperation with the State Board of Health and the State Fire Marshal, shall:

(a) Establish reasonable minimum standards for family foster homes, specialized foster homes, independent living foster homes and group foster homes.

(b) Prescribe rules for the regulation of family foster homes, specialized foster homes , *independent living foster homes* and group foster homes.

3. All family foster homes, specialized foster homes , *independent living foster homes* and group foster homes licensed pursuant to this chapter must conform to the standards established and the rules prescribed in subsection 2.

Sec. 35. NRS 424.030 is hereby amended to read as follows:

424.030 1. No person may conduct a family foster home, a specialized foster home , *an independent living foster home* or a group foster home without receiving a license to do so from the licensing authority.

2. No license may be issued to a family foster home, a specialized foster home , *an independent living foster home* or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.

3. Any family foster home, specialized foster home , *independent living foster home* or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which may be in force for 2 years after the date of issuance. On reconsideration of the standards maintained, the license may be renewed upon expiration.

4. If a family foster home, a specialized foster home , *an independent living foster home* or a group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home, specialized foster home , *independent living foster home* or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.

5. *A family foster home, a specialized foster home, an independent living foster home or a group foster home may not accept the placement of a child by a juvenile court unless licensed by the licensing authority to accept children placed by a juvenile court or otherwise approved to accept the placement by the licensing authority. A foster home that accepts the placement of such a child shall work cooperatively with the juvenile court, the licensing authority, any other children placed in the foster home and the legal guardian or other person or agency with legal authority over the child to ensure the safety of all children placed in the foster home. Nothing in this subsection shall be construed to allow the placement of a child that would otherwise be prohibited by subsection 7 of NRS 432B.390.*

6. *A license must not be issued to a specialized foster home or a group foster home unless the specialized foster home or group foster home maintains a policy of general liability insurance in an amount determined to be sufficient by the licensing authority.*

7. The license must show:

(a) The name of the persons licensed to conduct the family foster home, specialized foster home , *independent living foster home* or group foster home.

(b) The exact location of the family foster home, specialized foster home , *independent living foster home* or group foster home.

(c) The number of children that may be received and cared for at one time.

(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home, specialized foster home , *independent living foster home* or group foster home is licensed to provide care.

~~{6.}~~ (e) *Whether the family foster home, specialized foster home, independent living foster home or group foster home is approved to receive and care for children placed by a juvenile court.*

8. No family foster home, specialized foster home , *independent living foster home* or group foster home may receive for care more children than are specified in the license.

~~{7.}~~ 9. In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of ~~{provisional and}~~ special licenses.

Sec. 36. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, and resident of a foster home who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, to determine whether the person investigated has been arrested for , *has charges pending for or has been convicted of*:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use *or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon*;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime ~~{}~~ *or a felony relating to prostitution*;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; ~~{or}~~

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years ~~[-]~~;

(i) Any offense relating to pornography involving minors, including, without limitation, a violation of any provision of NRS 200.700 to 200.760, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(j) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punishable as a misdemeanor, within the immediately preceding 7 years;

(k) A crime involving domestic violence that is punishable as a felony;

(l) A crime involving domestic violence that is punishable as a misdemeanor, within the immediately preceding 7 years;

(m) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(n) Any offense involving the sale, furnishing, purchase, consumption or possession of alcoholic beverages by a minor including, without limitation, a violation of any provision of NRS 202.015 to 202.067, inclusive, or driving a vehicle under the influence of alcohol or a controlled substance in violation of chapter 484C of NRS or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years; or

(o) An attempt or conspiracy to commit any of the offenses listed in this subsection within the immediately preceding 7 years.

2. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

3. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to this section shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person has been conducted.

4. The licensing authority or its designee shall conduct an investigation of each *licensee*, employee and resident pursuant to this section at least once every 5 years after the initial investigation.

Sec. 37. NRS 424.036 is hereby amended to read as follows:

424.036 Before issuing a license to conduct a ~~[family]~~ foster home pursuant to NRS 424.030, the licensing authority shall discuss with the applicant and, to the extent possible, ensure that the applicant understands:

1. The role of a provider of ~~[family]~~ foster care, the licensing authority and the members of the immediate family of a child placed in a ~~[family]~~ foster home; and

2. The personal skills which are required of a provider of ~~[family]~~ foster care and the other residents of a ~~[family]~~ foster home to provide effective foster care.

Sec. 38. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a *family foster home*, a specialized foster home, an *independent living foster home* or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the home;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the home;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and
- (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

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

Sec. 39. NRS 424.037 is hereby amended to read as follows:

424.037 1. Before placing a child with a provider of ~~family~~ foster care, the licensing authority shall inform the provider of the plans, if any, which the licensing authority has developed relating to the provision of care required for that child. If the plan for the child changes, the licensing authority shall inform the provider of ~~family~~ foster care of the changes and the reasons for those changes.

2. The licensing authority shall consult with a provider of ~~family~~ foster care concerning the care to be provided to a child placed with the provider, including appropriate disciplinary actions that may be taken.

3. If issues concerning the health, safety or care of a child occur during the placement of the child with a provider of ~~family~~ foster care, the licensing authority shall:

- (a) Consider the daily routine of the provider when determining how to respond to those issues; and
- (b) To the extent possible, respond to those issues in a manner which is the least disruptive to that daily routine, unless that response would not be in the best interest of the child.

Sec. 40. NRS 424.038 is hereby amended to read as follows:

424.038 1. Before placing, and during the placement of, a child in a ~~family~~ foster home, the licensing authority shall provide to the provider of ~~family~~ foster care such information relating to the child as is necessary to ensure the health and safety of the child and the other residents of the

[family] foster home. This information must include the medical history and previous behavior of the child to the extent that such information is available.

2. The provider of [family] foster care may, at any time before, during or after the placement of the child in the [family] foster home, request information about the child from the licensing authority. After the child has left the care of the provider, the licensing authority shall provide the information requested by the provider, unless the information is otherwise declared to be confidential by law or the licensing authority determines that providing the information is not in the best interests of the child.

3. The provider of [family] foster care shall maintain the confidentiality of information obtained pursuant to this section under the terms and conditions otherwise required by law.

4. The Division shall adopt regulations specifying the procedure and format for the provision of information pursuant to this section, which may include the provision of a summary of certain information. If a summary is provided pursuant to this section, the provider of [family] foster care may also obtain the information set forth in subsections 1 and 2.

Sec. 41. NRS 424.0385 is hereby amended to read as follows:

424.0385 1. A licensee that operates a specialized foster home , *an independent living foster home* or a group foster home shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;
- (b) Administer medication to a child;
- (c) Store, handle and dispose of medication;
- (d) Document the administration of medication and any errors in the administration of medication;
- (e) Minimize errors in the administration of medication; and
- (f) Address errors in the administration of medication.

2. The licensee shall ensure that each employee of the specialized foster home , *independent living foster home* or group foster home who will administer medication to a child at the specialized foster home , *independent living foster home* or group foster home receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 42. NRS 424.040 is hereby amended to read as follows:

424.040 A licensing authority or its designee shall visit every licensed family foster home, specialized foster home , *independent living foster home* and group foster home as often as necessary to ensure that proper care is given to the children.

Sec. 43. NRS 424.045 is hereby amended to read as follows:

424.045 1. The Division shall establish, by regulation, a procedure for hearing grievances related to the reissuance, suspension or revocation of a license to conduct a [family] foster home.

2. A provider of [family] foster care may be represented by legal counsel in any proceeding related to:

(a) The reissuance, suspension or revocation of the license of the provider to conduct a [family] foster home; and

(b) The care given to a child by that provider.

Sec. 44. NRS 424.047 is hereby amended to read as follows:

424.047 1. A licensing authority shall, upon request, provide to a provider of [family] foster care access to all information, except references, in the records maintained by the licensing authority concerning that provider.

2. After reasonable notice and by appointment, a provider of [family] foster care may inspect the information kept in those records.

3. *A licensing authority may, upon request of the provider of foster care, release to an agency which provides child welfare services or a child-placing agency, as defined in NRS 127.220, all information, except references, in the records maintained by the licensing authority concerning that provider, including, without limitation, a study conducted to determine whether to grant a license to the provider or a study of the home of the provider. The licensing authority may charge and collect from a provider of foster care a fee for providing such information in an amount determined to cover the actual costs of the licensing authority to conduct the study or prepare the information requested by the provider to be released.*

Sec. 45. NRS 424.075 is hereby amended to read as follows:

424.075 1. A provider of [family] foster care may:

(a) Refuse to accept the placement of a child in the [family] foster home; or

(b) Request that a child placed in the [family] foster home be removed, unless the provider has a written agreement with the licensing authority to the contrary.

2. ~~If [Except as otherwise provided in subsection 3, if]~~ a provider of [family] foster care refuses to accept the placement of a child in, or requests the removal of a child from, a [family] foster home, the licensing authority may not, based solely on that refusal or request:

(a) Revoke the license of the provider to conduct a [family] foster home;

(b) Remove any other child placed in the [family] foster home;

(c) Refuse to consider future placements of children in the [family] foster home; or

(d) Refuse or deny any other rights of the provider as may be provided by the provisions of this chapter and any regulations adopted pursuant thereto.

~~f 3. The licensing authority may suspend or revoke the license of a provider of foster care if the provider refuses to accept the placement of a child or unreasonably or excessively requests the removal of a child placed with the provider of foster care when the child generally meets any preferences outlined in the fair and impartial investigation of the home and its standards of care that was conducted for the provider of foster care pursuant to NRS 424.030 or section 17 of this act.]~~

Sec. 46. NRS 424.077 is hereby amended to read as follows:

424.077 1. The Division shall, in consultation with each licensing authority in a county whose population is 100,000 or more, adopt regulations for the establishment of a program pursuant to which a provider of ~~[family]~~ foster care may receive respite from the stresses and responsibilities that result from the daily care of children placed in the ~~[family]~~ foster home.

2. The licensing authority shall establish and operate a program that complies with the regulations adopted pursuant to subsection 1 to provide respite, training and support to a provider of ~~[family]~~ foster care in order to develop and enhance the skills of the provider to provide foster care.

Sec. 47. NRS 424.079 is hereby amended to read as follows:

424.079 Upon the request of a provider of ~~[family]~~ foster care, the licensing authority shall allow the provider to visit a child after the child leaves the care of the provider if:

1. The child agrees to the visitation; and
2. The licensing authority determines that the visitation is in the best interest of the child.

Sec. 48. NRS 424.085 is hereby amended to read as follows:

424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home, a specialized foster home, *an independent living foster home* or a group foster home is not liable for any act of a child in his or her foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 49. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.
2. Care is provided by the legal guardian.
3. Care is provided for an exchange student.
4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.
5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is ~~[-~~

~~(a) Related~~ *related* to the caregiver by blood, adoption or marriage .
~~[- and~~
~~(b) Not in the custody of an agency which provides child welfare services.]~~

7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS *or a juvenile court pursuant to title 5 of NRS* if:

(a) The caregiver is related to the child within the fifth degree of consanguinity; and

(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive.

Sec. 50. NRS 424.093 is hereby amended to read as follows:

424.093 The Division shall:

1. Establish reasonable minimum standards for foster care agencies.

2. In consultation with foster care agencies and each agency which provides child welfare services, adopt:

(a) Regulations concerning ~~the operation of a~~ foster care ~~agency,~~ agencies, including, without limitation, a foster care agency which provides family foster care, specialized foster care, *independent living foster care* or group foster care for children placed by an agency which provides child welfare services ~~or a juvenile court.~~

(b) ~~Regulations regarding the issuance of nonrenewable provisional licenses to operate a foster care agency. The regulations must provide that a provisional license is valid for not more than 1 year.~~

~~(e)}~~ Regulations regarding the issuance and renewal of a license to operate a foster care agency.

~~(d)}~~ (c) Any other regulations necessary to carry out its powers and duties regarding the placement of children for foster care, including, without limitation, such regulations necessary to ensure compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 51. NRS 424.094 is hereby amended to read as follows:

424.094 1. A licensing authority may license foster care agencies within its jurisdiction in accordance with the regulations adopted by the Division pursuant to NRS 424.093.

2. Except as otherwise provided in this section, if a licensing authority licenses foster care agencies, a person shall not operate a foster care agency within the jurisdiction of the licensing authority or otherwise assist an agency which provides child welfare services in placing or in arranging the placement of any child in foster care until the foster care agency has obtained a license pursuant to NRS 424.095.

3. This section does not prohibit a parent or guardian of a child from placing or arranging the placement of, or assisting in placing or arranging the placement of, the child in foster care.

4. A licensing authority that licenses foster care agencies pursuant to this section may charge a *reasonable* fee ~~of not more than \$150~~ for the issuance ~~of a provisional license, not more than \$300 for the issuance of a license and not more than \$150 for the~~ or renewal of a license. Any fee so charged must ~~not exceed the actual cost incurred by the authority for providing or~~

~~renewing~~] be set at an amount determined to cover the costs of the licensing authority to issue or renew the license.

Sec. 52. NRS 424.095 is hereby amended to read as follows:

424.095 1. An application for a license to operate a foster care agency must be in a form prescribed by the Division and submitted to the appropriate licensing authority. Such a license is effective for 2 years after the date of its issuance and may be renewed upon expiration.

2. An applicant must provide reasonable and satisfactory assurance to the licensing authority that the applicant will conform to the ~~[standards established]~~ provisions of NRS 424.093 to 424.097, inclusive, and sections 4 to 26, inclusive, of this act and the regulations adopted by the Division pursuant ~~[to NRS 424.093.]~~ thereto.

3. Upon application for renewal, the licensing authority may renew a license if the licensing authority determines that the licensee conforms to the ~~[standards established]~~ provisions of NRS 424.093 to 424.097, inclusive, and sections 4 to 26, inclusive, of this act and the regulations adopted by the Division pursuant ~~[to NRS 424.093.]~~

~~4. A licensing authority may issue a nonrenewable provisional license in accordance with the regulations adopted by the Division pursuant to NRS 424.093.] thereto.~~

Sec. 53. NRS 424.096 is hereby amended to read as follows:

424.096 1. After notice and hearing, a licensing authority may:

(a) Deny an application for a license to operate a foster care agency if the licensing authority determines that the applicant does not ~~[meet the standards established and]~~ comply with the provisions of NRS 424.093 to 424.097, inclusive, and sections 4 to 26, inclusive, of this act and the regulations adopted by the Division pursuant ~~[to NRS 424.093.]~~ thereto.

(b) Upon a finding of deficiency, require a foster care agency to prepare a plan of corrective action and, within 90 days or a shorter period prescribed by the licensing authority require the foster care agency to complete the plan of corrective action.

(c) Refuse to renew a license or may revoke a license ~~[or provisional license]~~ if the licensing authority finds that the foster care agency has refused or failed to meet any of the established standards or has violated any of the regulations adopted by the Division pursuant to NRS 424.093.

2. A notice of the time and place of the hearing must be mailed to the last known address of the applicant or licensee at least 15 days before the date fixed for the hearing.

3. When an order of a licensing authority is appealed to the district court, the trial may be de novo.

Sec. 54. NRS 424.097 is hereby amended to read as follows:

424.097 A licensed foster care agency may provide such assistance to an agency which provides child welfare services *or juvenile court* as authorized by the agency which provides child welfare services ~~[.]~~ *or juvenile court*. Such services may include, without limitation:

1. Screening, recruiting ~~[—licensing]~~ and training of persons to provide family foster care, specialized foster care , *independent living foster care* and group foster care;

2. Case management services;

3. Referral services;

4. Supportive services for persons providing foster care to meet the needs of children in foster care;

5. Coordination of case plans and treatment plans; and

6. Services, or facilitating the provision of such services, to children placed in foster care.

Sec. 55. NRS 432.515 is hereby amended to read as follows:

432.515 "Provider of ~~[family]~~ foster care" has the meaning ascribed to it in NRS 424.017.

Sec. 56. NRS 432.540 is hereby amended to read as follows:

432.540 1. A provider of ~~[family]~~ foster care that places a child in a foster home shall:

(a) Inform the child of his or her rights set forth in NRS 432.525, 432.530 and 432.535;

(b) Provide the child with a written copy of those rights; and

(c) Provide an additional written copy of those rights to the child upon request.

2. A group foster home shall post a written copy of the rights set forth in NRS 432.525, 432.530 and 432.535 in a conspicuous place inside the group foster home.

Sec. 57. NRS 432.545 is hereby amended to read as follows:

432.545 A provider of ~~[family]~~ foster care may impose reasonable restrictions on the time, place and manner in which a child may exercise his or her rights set forth in NRS 432.525, 432.530 and 432.535 if the provider of ~~[family]~~ foster care determines that such restrictions are necessary to preserve the order, discipline or safety of the foster home.

Sec. 58. NRS 432.550 is hereby amended to read as follows:

432.550 If a child believes that his or her rights set forth in NRS 432.525, 432.530 and 432.535 have been violated, the child may raise and redress a grievance with, without limitation:

1. A provider of foster care;

2. An employee of a ~~[family foster home, as defined in NRS 424.013, group foster home or specialized]~~ foster home;

3. An agency which provides child welfare services to the child, and any employee thereof;

4. A juvenile court with jurisdiction over the child;

5. A guardian ad litem for the child; or

6. An attorney for the child.

Sec. 59. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Request appropriations from the Legislature in amounts sufficient to:

(a) Provide block grants to an agency which provides child welfare services in a county whose population is 100,000 or more pursuant to NRS 432B.2185; and

(b) Administer a program to provide additional incentive payments to such an agency pursuant to NRS 432B.2165.

3. Monitor the performance of an agency which provides child welfare services in a county whose population is 100,000 or more through data collection, evaluation of services and the review and approval of agency improvement plans pursuant to NRS 432B.2165.

4. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

5. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

6. Involve communities in the improvement of child welfare services.

7. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not in substantial compliance with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.

8. Coordinate with and assist:

(a) Each agency which provides child welfare services in recruiting, training and licensing providers of ~~family~~ foster care as defined in NRS 424.017;

(b) Each foster care agency licensed pursuant to NRS 424.093 to 424.097, inclusive, *and sections 4 to 26, inclusive, of this act* in screening, recruiting, licensing and training providers of ~~family~~ foster care as defined in NRS 424.017; and

(c) A nonprofit or community-based organization in recruiting and training providers of ~~family~~ foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.

Sec. 60. NRS 432B.623 is hereby amended to read as follows:

432B.623 1. As a condition to the provision of assistance pursuant to the Program:

(a) A child must:

(1) Have been removed from his or her home:

(I) Pursuant to a written agreement voluntarily entered by the parent or guardian of the child and an agency which provides child welfare services; or

(II) By a court which has determined that it is in the best interests of the child for the child to remain in protective custody or to be placed in temporary or permanent custody outside his or her home;

(2) For not less than 6 consecutive months, have been eligible to receive maintenance pursuant to Part E of Title IV of the Social Security Act, 42 U.S.C. §§ 670 et seq., while residing with the relative of the child;

(3) Not have as an option for permanent placement the return to the home or the adoption of the child;

(4) Demonstrate a strong attachment to the relative;

(5) If the child is 14 years of age or older, be consulted regarding the guardianship arrangement; and

(6) Meet any other requirements for eligibility set forth in 42 U.S.C. §§ 671 and 673.

(b) A relative of the child must:

(1) Demonstrate a strong commitment to caring for the child permanently;

(2) Be a provider of ~~[family]~~ foster care as defined in NRS 424.017;

(3) Enter into a written agreement for assistance with an agency which provides child welfare services before the relative is appointed as the legal guardian of the child;

(4) Be appointed as the legal guardian of the child by a court of competent jurisdiction and comply with any requirements imposed by the court; and

(5) Meet any other requirements for eligibility set forth in 42 U.S.C. §§ 671 and 673.

2. If the sibling of a child who is eligible for assistance pursuant to the Program is not eligible for such assistance, the sibling may be placed with the child who is eligible for assistance upon approval of the agency which provides child welfare services and the relative. In such a case, payments may be made for the sibling so placed as if the sibling is eligible for the Program.

Sec. 61. NRS 392.210 is hereby amended to read as follows:

392.210 1. Except as otherwise provided in subsection 2, a parent, guardian or other person who has control or charge of any child and to whom notice has been given of the child's truancy as provided in NRS 392.130 and 392.140, and who fails to prevent the child's subsequent truancy within that school year, is guilty of a misdemeanor.

2. A person who is licensed pursuant to NRS 424.030 to conduct a ~~[family foster home, a specialized foster home or a group]~~ foster home is liable pursuant to subsection 1 for a child in his or her foster care only if the person has received notice of the truancy of the child as provided in

NRS 392.130 and 392.140, and negligently fails to prevent the subsequent truancy of the child within that school year.

Sec. 62. NRS 442.405 is hereby amended to read as follows:

442.405 1. The agency which provides child welfare services shall inquire, during its initial contact with a natural parent of a child who is to be placed in a family foster home, about consumption of alcohol or substance abuse by the mother of the child during pregnancy. The information obtained from the inquiry must be:

(a) Provided to the provider of ~~family~~ foster care pursuant to NRS 424.038; and

(b) Reported to the Health Division on a form prescribed by the Health Division. The report must not contain any identifying information and may be used only for statistical purposes.

2. As used in this section, "family foster home" has the meaning ascribed to it in NRS 424.013.

Sec. 63. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

↪ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

↪ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, the State Fire Marshal's authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a

consolidated municipality, except in those local jurisdictions in those counties where the State Fire Marshal is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040 and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from ~~{family foster homes, specialized foster homes and group}~~ foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances, on request or as the State Fire Marshal deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of the State Fire Marshal's authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 700,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International

Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 694 to Assembly Bill No. 348 removes new language, which would have allowed the licensing authority to suspend or revoke the license of a provider of foster care if the provider refused to accept the placement of a child or unreasonably or excessively requested the removal of a child when the agency determined, through a home investigation and its standards of care, that it was an appropriate placement. It also clarifies that the new provisions related to the placement of a child by a juvenile court may not be construed to allow for the placement of a child if such a placement would be prohibited by Subsection 7 of Section 390 of Chapter 432B of *Nevada Revised Statutes*, which requires siblings to be placed together whenever possible and prohibits such a child from being placed in jail or other place for detention, or certain similar facilities.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

Remarks by Senators Atkinson, Hutchison, Hardy, Denis, Jones, Settelmeyer, Spearman and Cegavske.

SENATOR ATKINSON:

Thank you, Mr. President. Senate Bill No. 123 requires certain electric utilities to file with the Public Utilities Commission of Nevada a comprehensive plan for emissions reductions from coal-fired electric generating plants and for the replacement of such plants with increased capacity from renewable energy facilities and other electric generating plants. The measure prescribes the minimum requirements of such plans, including: (1) the retirement or elimination of not less than 800 megawatts of coal-fired electric generating capacity on or before December 31, 2019; (2) the construction or acquisition of, or contracting for, 350 megawatts of electric generating capacity from renewable energy facilities; and (3) the construction or acquisition of 550 megawatts of electric capacity from other electric generating plants.

The measure provides for the recovery of certain costs incurred by an electric utility in carrying out an emissions reduction and capacity replacement plan. The bill prescribes the power and duties of the Division of Environmental Protection of the State Department of Conservation and Natural Resources with respect to such a plan. If the Public Utilities Commission of Nevada deems inadequate any portion of a utility's emissions reduction and capacity plan or an amendment to the plan, the Public Utilities Commission of Nevada may recommend a modification to the plan or amendment, and the utility may accept the modification or withdraw the proposed plan or amendment. The Public Utilities Commission of Nevada is required after a hearing to review and accept or modify such a plan. Finally, the bill requires that any order issued by the Public Utilities Commission of Nevada accepting an element of such a plan must authorize a utility to construct or acquire and own electric generating plants necessary to implement it. This bill is effective upon passage and approval.

In my time here in Carson City, I have learned at least one thing: a stable, reliable and efficient source of electricity is essential to the health and welfare of every Nevadan. Senate Bill No. 123 outlines a strong policy statement, and charts a new course for Nevada's energy future. This legislation puts Nevada at the forefront of energy policy in this country and eliminates the uncertainty that continues to surround the operation of coal facilities.

As NV Energy exits its retiring-age coal fired generating units, those units will be replaced in a timely manner by building or acquiring a portfolio of new, cleaner and more efficient units as soon as the need arises. It is important that Nevada continues to have a strong, stable utility that our residents can rely on. In particular, Section 17 of this legislation mandates that NV Energy exits coal and will construct or acquire and own the first 550 megawatts needed for the customer. In short, the bill mandates that NV Energy immediately take steps that are necessary to make sure Nevadans do not, once again, become dependent on wholesale electricity markets.

In addition, the bill provides an orderly and predictable process for developing Nevada's abundant natural renewable energy sources. The bill requires NV Energy to take appropriate and necessary steps to develop 350 megawatts of new renewable facilities and provides construction jobs at a critical point in the emerging recovery of Nevada's economy. The bill also makes a distinct and bold new approach to the development of renewable energy for our State, mandating the development of renewable facilities rather than relying on mathematical formulas to stimulate the industry. This stable, competitive approach provides certainty for the customers and renewable developers have welcomed it with open arms.

The bill achieves all of those important objectives without sacrificing regulatory oversight. The bill uses an existing regulatory process for reviewing this emissions reduction and capacity replacement plan. The bill also insures that the Public Utilities Commission of Nevada will review the rate consequences of NV Energy's actions by using the standards the Commission uses today. In summary, the bill has garnered support from a broad coalition of interest groups. Environmental groups have expressed their strong support for the legislation. Renewable developers have expressed support for the legislation as well. Last but not least, Governor Sandoval and United States Senate Majority Leader Harry Reid have endorsed Senate Bill No. 123. I urge this Body's support.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise in support of Senate Bill No. 123. I first wish to congratulate my friend and colleague, the Chair of the Senate Committee on Commerce, Labor and Energy, for ushering this important legislation through a difficult process. We have had spirited debates, but we have also done some important work here with wide bipartisan support. We began with the Internet gaming bill—Assembly Bill No. 114—in the first weeks of this Legislative Session. That bill was essential to our economy and to maintaining our gold standard in the gaming industry.

I believe Senate Bill No. 123 will, after this Session, be counted as another bipartisan effort to address another important element of our economy: the energy policy of this State. It is one we should all embrace. It ensures the consumers of energy in the State of Nevada are protected, and it reflects that they were a major focus when we considered this challenging legislation.

Please allow me to explain the reasons why I support Senate Bill No. 123. We had several—three, I believe—hearings in Committee on this bill. We heard from many witnesses. The first point is the Board of Directors of NV Energy made a business decision that the company had to migrate from coal-fired energy plants to other energy resources for a variety of reasons, all of which were driven by federal lawsuits and regulations and related federal actions. The company was faced with continuing federal environmental lawsuits which are costly and not going away. The company was also faced with what were characterized as aggressive enforcement actions by the United States Department of Justice. It can be debated whether they should or should not be that aggressive. The company also faced increasing and escalating regulations by the United States Environmental Protection Agency. For all of those reasons, the Board of Directors of NV Energy decided the company had to change direction, and the company had to retire coal-fired electric generating plants and move to gas-fired plants and renewable energy, on an accelerated and expanded basis. I respect the decision of the Board of

Directors of NV Energy who have fiduciary duties to both their shareholders and their customers.

Secondly, we talked about rates and regulations a great deal in Committee. The Chairman was as concerned as all of us on those two issues. What we heard again and again—NV Energy gave us their models, their projections and their assumptions and told us, repeatedly that, without this measure—Nevadans who are NV Energy customers would face a 1.5 percent increase in their rates each year on average over 20 years with existing plans and without this bill. Under this bill, the rates will increase by 1.65 percent per year on average over 20 years. So if an existing customer has a power bill of \$100 today, in 20 years that power bill would be \$132 if we do nothing; with this bill, it changes that future bill amount to \$136. I felt with all the risks and considerations that was a reasonable position and outcome. I had no reason to believe the models and the assumptions were accurate; we asked as a Committee if there was anyone who could tell us if they were not accurate, and we heard nothing. We took NV Energy at their word. We took at their word those who were involved in the process. No one testified about any problems with those models or assumptions, and so we moved forward.

As the Chair of the Committee mentioned, the Public Utilities Commission of Nevada regulation was another area of concern for all of us. Originally, NV Energy's Envision Plan established a different process for the Public Utilities Commission of Nevada to review the emission reduction and capacity replacement plan—it concerned several of us and the Chairman worked closely with the sponsor of the bill and others to go back and tighten that up so it would be in a form we could understand and accept. We needed it to be in a place where the Committee could embrace a bill that recognizes this monopoly that needs to change, but that still needs to be regulated. As revised under the bill, the Public Utilities Commission of Nevada will review the emissions reductions and capacity replacement plan under existing law and under the existing integrated resource planning statute; the Public Utilities Commission of Nevada may issue an order under existing law.

The standard that the Public Utilities Commission of Nevada will use to set rates is unchanged under this bill. The Public Utilities Commission of Nevada will continue to ensure the rates charged by the company are just and reasonable. As the Chairman said, the Governor's Office is fully in support of Senate Bill No. 123. We asked the Governor's Director of Energy if she was satisfied, on behalf of the Governor, with the oversight by the Public Utilities Commission of Nevada. She and the Governor are both in support.

Finally, we received, and I heard, no opposition from consumer advocacy groups or representatives at the hearings. I heard wide support among the various interest groups. The Chairman did a great job in bringing those interest groups together and fashioning a bill that makes sense and received the support of those in the environmental arena, those in the gaming industry and the Board of Directors of NV Energy. Senate Bill No. 123 has the added benefit of job creation and will eventually make us independent from an energy production standpoint in the State of Nevada.

Again, I congratulate those who have been involved in this process. I again tip my hat to the Chairman of the Senate Committee on Commerce, Labor and Energy. I urge your support.

SENATOR HARDY:

Thank you, Mr. President. I would like to thank the Chair of the Senate Committee on Commerce, Labor and Energy. We were allowed to have input as no other Committee has had the opportunity to do. We enjoyed talking to all of the people who had a dog in this fight. I rise in support of Senate Bill No. 123.

The process worked, and it worked well. One of the things that impressed me was when we started going through the process—we literally had pages of questions to work through—we had people come to us in our offices, in Committee and in the hallways. They had a vested interest in the outcome. One of the groups was the independent power producers. What I enjoyed about the final outcome is the word "contracting." There are those who produce power in the State of Nevada, as well as outside the State, who help us in our power needs. We have made sure we include those folks. NV Energy was, and is, able to continue to do that without having to necessarily build four power plants all at once.

Likewise, the Public Utilities Commission of Nevada—it was an interesting dynamic in Committee where we had three people at the table, and we were reviewing the amendment to the bill. We came across the word “modify.” With that word, we heard testimony that they did not want to modify. They wanted to either deny it or approve it. The Public Utilities Commission of Nevada indicated they liked the word “modify.” We have given the Public Utilities Commission of Nevada something they did not have before, and that is a good thing.

As we go forward, we know power is the key thing for many of the major businesses. We have assured that we will be going forward. Likewise, we are also looking at NV Energy to have the ability to have their own renewable energies and thus be part of the competition. I am, indeed, in support of the bill. I appreciate all of those who had a hand in developing this, and who will continue to work with us as we go through the rest of the process.

SENATOR DENIS:

Thank you, Mr. President. I rise in support of Senate Bill No. 123. I had the same opportunity to be part of the process, to sit in, as was mentioned by others. I was able to ask questions and hear from all of the different parties that are impacted by energy—which is everyone. We had many of those groups there. What I like the best about this bill is it replaces some power plants that need to be replaced anyway. They will be replaced with renewables, clean energy. In the past I have talked about the importance of clean air and how it impacts, not only the community as a whole, but in the minority communities. Clean air is important. In some areas these power plants are closer to large metropolitan areas and can create issues with asthma and other things. I appreciate that is being addressed.

I appreciate the regulation aspects of Senate Bill No. 123. Initially things were to be done a bit differently and it caused me some concern, but the concerns were addressed. I support this bill, and I urge we pass it today.

SENATOR JONES:

Thank you, Mr. President. I rise in strong support of Senate Bill No. 123. As some of you know, I had concerns when this bill was first presented. As you have heard, the parties came together and worked diligently to improve this legislation over a period of several weeks. I had interested parties visiting me late into the evening sometimes, after working all day on this. Their efforts were tremendous and the outcome is worthwhile: retiring coal is the right public policy for our State. Expanding renewable energy is the right public policy for our State. Allowing our regulators to be involved in that process is also the right public policy for our State.

I would like to thank United States Senator Reid for pressing to retire coal and increase renewables in our State and Governor Sandoval for embracing that vision. Most of all I want to thank the Chair of the Senate Committee on Commerce, Labor and Energy for holding everyone’s feet to the fire so that this got done. I hope that when this bill goes to the Assembly that they respect the tremendous efforts by the Chair and the parties to get this into a format that is beneficial to our State.

SENATOR SETTELMEYER:

Thank you, Mr. President. I rise in support for Senate Bill No. 123 as well. I also want to thank the Chair of the Senate Committee on Commerce, Labor and Energy for taking the time to listen to all concerns. Everyone on the Committee who had concerns, as well as the individuals who came and testified, the Chair did his best to reconcile the expressed concerns. I appreciate that. We have worked together in the past, when he was in the Assembly. He is a different person here in the Senate, and I am grateful for that.

This reminds me of a political reality: I may not necessarily agree with some of my colleagues about whether coal is good or bad. It is a political reality that sooner, not later, all of these coal-based plants will be gone. That is a political reality of the current administration that I may not agree with, but with the reality in place, plants will close. It is important that we make sure that Nevada power is provided through Nevada power plants. We need to quit buying power from other states. As we promote renewable energy, Nevada jobs will be created. I also appreciate that we put back into the bill discretion for the Public Utilities Commission of Nevada

to delay the building of the plant unless it is reasonable within the time frame. In other words, we gave them more discretion within the bill. For these reasons, I support Senate Bill No. 123.

SENATOR SPEARMAN:

Thank you, Mr. President. I rise in strong support of Senate Bill No. 123. A few years ago when I was on a study trip to Uganda, I learned a phrase I like to repeat during times of transformation. I think that is where we are as a State right now. We are in a transformational time. We have depended on coal for years and years. As my colleague from Senate District No. 17 says, it is a political reality, but we also know it is an ecological reality.

In support of Senate Bill No. 123, I say *mwazi ni ugumo* which means, “the beginning is always tough” in Swahili. As we embark upon this next phase of renewable energy, I think this bill is the right thing to do.

SENATOR CEGAUSKE:

Thank you, Mr. President. I rise in support of Senate Bill No. 123. I want to thank the Senate Committee on Commerce, Labor and Energy and those who have been involved. When you do not sit on a Committee, you do not always hear everything that is going on. This is not a simple bill. It is complex. There are many nuances to it. There were many discussions over a long period of time. I would like to thank not only the Chair, but the Committee members because each Committee member was available for discussion. In my impression, every Committee member was well versed on this bill. That does not always happen. From standing outside the Committee, I saw a Committee doing their work. The issues were dissected every which way. I want to say thank you because I had concerns. I only had two emails from constituents on this complex issue. Thank you for helping those of us who do not sit on the Senate Committee on Commerce, Labor and Energy to understand what was going on and describe it in a way we could understand.

When I did get some national concerns, I called NV Energy and they spoke with the people who contacted me. I want to thank them for that. I thought it was above and beyond to get someone who is not even in the State the information they need. We recognized that there are people from all over the Nation who look at what we do. I stand to recognize everyone for their hard work.

Roll call on Senate Bill No. 123:

YEAS—21.

NAYS—None.

Senate Bill No. 123 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 221.

Bill read third time.

The following amendment was proposed by Senator Roberson:

Amendment No. 820.

"SUMMARY—Makes certain changes relating to public safety. (BDR 14-943)"

"AN ACT relating to public safety; requiring a court to transmit within 5 business days certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; authorizing the inclusion, correction and removal of the information in such records in each appropriate database of the National Crime Information Center; requiring each agency of criminal justice to submit information

relating to records of criminal history within 60 days after the date of the conviction; ~~requiring certain persons to request a background check before transferring a firearm to another person under certain circumstances;~~ requiring the Central Repository, upon request, to conduct a background check without charge on a person who wishes to acquire a firearm; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; requiring a mental health professional to notify certain persons when a patient makes certain explicit threats of imminent serious physical harm or death; providing for an interim study regarding various issues relating to firearms; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person with a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a defendant by reason of insanity or a plea or finding of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.0593, 174.035, 175.533, 175.539, 178.425, 433A.310) Sections 1-4, 7 and 11 of this bill require such records to be transmitted to the Central Repository within 5 business days.

Existing law requires the inclusion, correction and removal of information in records of criminal history in each appropriate database of the National Instant Criminal Background Check System. (NRS 179A.163, 179A.165, 179A.167, 433A.310) Sections 4.5, 4.6, 4.7 and 11 of this bill also authorize or require, as appropriate, the inclusion, correction and removal of such information in each appropriate database of the National Crime Information Center. Section 4.1 of this bill defines "National Crime Information Center" to mean the computerized information system created and maintained by the Federal Bureau of Investigation pursuant to 28 U.S.C. § 534.

Existing law requires each agency of criminal justice to submit information relating to records of criminal history within the period prescribed by the Director of the Department of Public Safety. (NRS 179A.075) Section 4.3 of this bill requires the submission of such information within 60 days after the date of the conviction.

Existing law authorizes a private person who wishes to transfer a firearm to another person to request the Central Repository to perform a background check on the person who wishes to acquire the firearm. (NRS 202.254) Section 8 of this bill ~~requires, with certain exceptions which are set forth in section 7.8 of this bill, that a private person who wishes to transfer a firearm~~

~~to another person request that a federally licensed firearms dealer submit a request for a background check to the National Instant Criminal Background Check System. Under section 8, the private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm must appear jointly at the place of business of a licensed dealer and, upon receipt of a request, the licensed dealer must contact the National Instant Criminal Background Check System to initiate a background check on the person who wishes to acquire the firearm. Section 8 requires the licensed dealer to comply with all requirements of state and federal law concerning the transfer of a firearm as though the licensed dealer were selling the firearm from his or her own inventory, except that the background check must be obtained from the National Instant Criminal Background Check System and not the Central Repository. The licensed dealer is required to inform the parties of the response from the National Instant Criminal Background Check System and the consequences of the response. If the response is that the transfer would violate state or federal law, the licensed dealer is required to so inform the parties and the transfer must not take place. In addition, section 8 limits any fee that a licensed dealer may charge for the background check to not more than \$30.~~

~~Section 7.9 of this bill establishes criminal penalties for a private person who transfers a firearm in violation of section 8 or section 7.85 of this bill. Section 8 further makes it a misdemeanor for a licensed dealer to request a background check for any purpose other than the purpose set forth in that section or to disseminate information obtained from a background check to a person other than a person authorized to receive that information. Section 8 also makes it a category E felony for a person to make a materially false statement or furnish or exhibit any false identification to deceive a licensed dealer in connection with the transfer or attempted transfer of a firearm by a private person.~~

~~Section 7.85 requires a private person who wishes to transfer a firearm to another private person who holds a permit to carry a concealed firearm to appear jointly at the place of business of a licensed dealer and demonstrate to the licensed dealer the firearm that is the subject of the transfer and the permit to carry a concealed firearm of the person who wishes to acquire the firearm. A background check is not required, but the licensed dealer is required to maintain a record of the transaction.] prohibits the Central Repository from charging a fee to perform the background check. Section 8 further provides immunity from civil and criminal liability to a person who does not request a background check or who requests a background check for any act or omission that was taken in good faith and without malicious intent. Finally, section 8 allows the Director of the Department of Public Safety to request an allocation from the Contingency Account if necessary to cover the cost of providing background checks without the imposition of a fee.~~

Existing law prohibits a person who has been adjudicated as mentally ill, has been committed to any mental health facility or is illegally or unlawfully

in the United States from possessing or having custody or control of a firearm. (NRS 202.360) Section 9 of this bill also prohibits a person who has entered a plea of guilty but mentally ill, has been found guilty but mentally ill or has been acquitted by reason of insanity from possessing or having custody or control of a firearm.

Existing law prohibits a person from selling or otherwise disposing of any firearm or ammunition to another person if he or she has actual knowledge that the other person: (1) is under indictment for, or has been convicted of, a felony; (2) is a fugitive from justice; (3) has been adjudicated as mentally ill or has been committed to a mental health facility; or (4) is illegally or unlawfully in the United States. (NRS 202.362) Section 10 of this bill prohibits a person from selling , transferring or otherwise disposing of any firearm or ammunition to another person or purchasing a firearm on behalf of or for another person with the intent to transfer the firearm to that person if he or she has reasonable cause to believe that the other person meets any of those listed conditions , ~~for~~ if the other person is otherwise prohibited from possessing a firearm, ~~or~~ or if the other person is a member of a criminal gang.

Existing law provides that a patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the patient and the patient's psychologist or doctor. (NRS 49.209, 49.225) Sections 5 and 6 of this bill provide exceptions to the privilege for certain determinations which are now required pursuant to this bill.

Existing law: (1) designates the Division of Mental Health and Developmental Services of the Department of Health and Human Services as the official state agency for developing and administering outpatient mental health services; and (2) requires the Division to perform certain functions relating to mental health. (NRS 436.123) Section 12 of this bill requires the Division to assist and consult with local governments and all law enforcement agencies in this State in providing community mental health services.

Existing law imposes various requirements and duties on certain health care professionals. (Chapter 629 of NRS) Section 13 of this bill provides that if a patient of a mental health professional makes an explicit threat of imminent serious physical harm or death to a person, and the mental health professional believes the patient has the intent and ability to carry out the threat, the mental health professional must notify the threatened person and the appropriate law enforcement agency. A mental health professional who exercises reasonable care in determining whether or not to provide notice of such a threat is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information or for any damages caused by the actions of a patient.

Section 13.5 of this bill requires the Legislative Commission to appoint a committee to conduct an interim study concerning criminal access to firearms, improving school security and ascertaining ways to improve

Nevada's reporting requirements to ensure that persons who are disqualified from owning a firearm for mental health reasons are reported to the National Instant Criminal Background Check System.

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

Section 1. NRS 174.035 is hereby amended to read as follows:

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

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

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

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing the defendant's mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

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

(a) Due to a disease or defect of the mind, the defendant was in a delusional state at the time of the alleged offense; and

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

(1) Know or understand the nature and capacity of his or her act; or

(2) Appreciate that his or her conduct was wrong, meaning not authorized by law.

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

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

(a) Probation is not allowed; or

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

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

8. If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, *within 5 business days after acceptance of the plea*, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

9. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

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

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

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

(c) The defendant has not established by a preponderance of the evidence that the defendant is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

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

3. If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, *within 5 business days after the finding*, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

4. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and the defendant is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if the defendant were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport the person to a forensic facility for detention pending a hearing to determine the person's mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order the person's discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that the person be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until the person is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

↪ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, *within 5 business days after accepting the verdict*, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and dangerous to himself or herself or to society and that commitment is required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or the Administrator's designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders the defendant's release or until the defendant is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or herself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or the Administrator's designee as an outpatient for treatment, if it might be beneficial, and for a determination of the defendant's ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for any periodic appearances before the Administrator or the Administrator's designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or the Administrator's designee or, if the defendant is charged with a misdemeanor, the judge finds the defendant capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, *within 5 business days after the finding*, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 4.1. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

"National Crime Information Center" means the computerized information system created and maintained by the Federal Bureau of Investigation pursuant to 28 U.S.C. § 534.

Sec. 4.2. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, *and section 4.1 of this act* have the meanings ascribed to them in those sections.

Sec. 4.3. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates, ~~for~~ issues ~~to~~ or collects, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➔ within ~~the period prescribed by the Director of the Department.~~ 60 days after the date of the disposition of the case. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183 and 449.123; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➡ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➡ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➡ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183, 449.122 or 449.123.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 4.5. NRS 179A.163 is hereby amended to read as follows:

179A.163 1. Upon receiving a record transmitted pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310, the Central Repository ~~shall~~:

(a) *Shall* take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System ~~[-]~~; and

(b) *May take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Crime Information Center.*

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System ~~[-]~~ *and the National Crime Information Center, if applicable.*

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310, the

petitioner may not file a petition pursuant to subsection 2 until 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The Nevada Rules of Civil Procedure govern all proceedings concerning a petition filed pursuant to subsection 2.

6. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

7. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection 6 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 159.0593 or 433A.310, the petitioner must establish the provisions of subsection 6 by clear and convincing evidence.

8. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

9. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 8, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 is removed from the National Instant Criminal Background Check System ~~[-]~~ and the National Crime Information Center, if applicable.

10. If the Central Repository fails to remove a record as provided in subsection 9, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

11. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 4.6. NRS 179A.165 is hereby amended to read as follows:

179A.165 1. Any record described in NRS 179A.163 is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for a *purpose related to criminal justice, including, without limitation*, inclusion in the appropriate database of the National Instant Criminal Background Check

System ~~[-]~~ and the National Crime Information Center, if applicable. The Central Repository may disclose the record to any agency of criminal justice.

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425, 179A.163 or 433A.310, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 4.7. NRS 179A.167 is hereby amended to read as follows:

179A.167 1. The Central Repository shall permit a person who is or believes he or she may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; or

(b) Transmitted to the National Instant Criminal Background Check System *or the National Crime Information Center* pursuant to NRS 179A.163.

Sec. 5. NRS 49.213 is hereby amended to read as follows:

49.213 There is no privilege pursuant to NRS 49.209 or 49.211:

1. For communications relevant to an issue in a proceeding to hospitalize the patient for mental illness, if the psychologist in the course of diagnosis or treatment has determined that the patient requires hospitalization.

2. *For communications relevant to any determination made pursuant to NRS 202.360.*

3. For communications relevant to an issue of the treatment of the patient in any proceeding in which the treatment is an element of a claim or defense.

~~{3-}~~ 4. If disclosure is otherwise required by state or federal law.

~~{4-}~~ 5. For communications relevant to an issue in a proceeding to determine the validity of a will of the patient.

~~{5-}~~ 6. If there is an immediate threat that the patient will harm himself or herself or other persons.

~~{6-}~~ 7. For communications made in the course of a court-ordered examination of the condition of a patient with respect to the specific purpose of the examination unless the court orders otherwise.

~~{7-}~~ 8. For communications relevant to an issue in an investigation or hearing conducted by the Board of Psychological Examiners if the treatment of the patient is an element of that investigation or hearing.

~~{8-}~~ 9. For communications relevant to an issue in a proceeding relating to the abuse or neglect of a person with a disability or a person who is legally incompetent.

Sec. 6. NRS 49.245 is hereby amended to read as follows:

49.245 There is no privilege under NRS 49.225 or 49.235:

1. For communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

2. *For communications relevant to any determination made pursuant to NRS 202.360.*

3. As to communications made in the course of a court-ordered examination of the condition of a patient with respect to the particular purpose of the examination unless the court orders otherwise.

~~{3-}~~ 4. As to written medical or hospital records relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

~~{4-}~~ 5. In a prosecution or mandamus proceeding under chapter 441A of NRS.

~~{5-}~~ 6. As to any information communicated to a physician in an effort unlawfully to procure a dangerous drug or controlled substance, or unlawfully to procure the administration of any such drug or substance.

~~{6-}~~ 7. As to any written medical or hospital records which are furnished in accordance with the provisions of NRS 629.061.

~~{7-}~~ 8. As to records that are required by chapter 453 of NRS to be maintained.

~~{8-}~~ 9. If the services of the physician are sought or obtained to enable or aid a person to commit or plan to commit fraud or any other unlawful act in violation of any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS which the person knows or reasonably should know is fraudulent or otherwise unlawful.

Sec. 7. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause , *within 5 business days after issuing the order*, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or herself or others; or

(2) Lacks the capacity to contract or manage his or her own affairs.

Sec. 7.1. ~~{Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 7.2 to 7.9, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 7.2. ~~{As used in NRS 202.254 and sections 7.2 to 7.9, inclusive, of this act, the words and terms defined in sections 7.3 to 7.7, inclusive, of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 7.3. ~~{*"Background check"* means a report from the National Instant Criminal Background Check System.}~~ (Deleted by amendment.)

Sec. 7.4. ~~{*"Licensed dealer"* means a person who holds a license as a dealer in firearms issued pursuant to 18 U.S.C. § 923.}~~ (Deleted by amendment.)

Sec. 7.5. ~~{*"Mental health professional"* has the meaning ascribed to it in section 13 of this act.}~~ (Deleted by amendment.)

Sec. 7.6. ~~{*"National Instant Criminal Background Check System"* has the meaning ascribed to it in NRS 179A.062.}~~ (Deleted by amendment.)

Sec. 7.7. ~~["Private person" means a person who is not a licensed dealer.] (Deleted by amendment.)~~

Sec. 7.8. ~~The provisions of NRS 202.254 do not apply to:~~

~~1. A transfer of a firearm to a person who is a holder of a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive.~~

~~2. A transfer of a firearm to a person who holds a license as a manufacturer or importer in firearms issued pursuant to 18 U.S.C. § 923.~~

~~3. A transfer of an antique firearm, as defined in 18 U.S.C. § 921, or a curio or relic, as defined in 27 C.F.R. § 178.11.~~

~~4. A transfer of a firearm that is a gift or loan between family members who are related by consanguinity or affinity within the second degree.~~

~~5. A transfer of a firearm that occurs by operation of law or because of the death of a person for whom the person transferring the firearm is an executor or administrator of an estate or a trustee of a trust created in a will.~~

~~6. A transfer of a firearm that is temporary and occurs while in the home of the person to whom the firearm is transferred if the person to whom the firearm is transferred:~~

~~(a) Is not prohibited from possessing a firearm; and~~

~~(b) Reasonably believes that possession of the firearm is necessary to prevent imminent death or serious bodily injury to the person making the transfer or others.~~

~~7. A temporary transfer of possession of a firearm without transfer of ownership or title to ownership of the firearm, if such transfer takes place:~~

~~(a) At a shooting range located in or on any premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency with firearms;~~

~~(b) At a target firearm shooting competition under the auspices of, or approved by, a state agency or a nonprofit organization; or~~

~~(c) While hunting, fishing, target shooting or trapping if:~~

~~(1) The hunting, fishing, target shooting or trapping is legal in all places where the person to whom the firearm is transferred possesses the firearm; and~~

~~(2) The person to whom the firearm is transferred holds all licenses or permits required for such hunting, fishing, target shooting or trapping.~~

~~8. A temporary transfer of a firearm that occurs while in the presence of the owner of the firearm.~~

~~9. A transfer of a firearm from a person serving in the Armed Forces of the United States to an immediate family member if the person transferring the firearm will be deployed outside the United States within 30 days after the transfer.~~

~~10. A temporary transfer of a firearm from a person to a mental health professional or to the person's physician if the mental health professional, the physician or the person believes the transfer is necessary to protect the health or safety of the person or others.] (Deleted by amendment.)~~

Sec. 7.85. ~~{1. A private person who wishes to transfer a firearm to another private person who holds a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, shall, before transferring the firearm, appear jointly at the place of business of a licensed dealer during the licensed dealer's normal business hours and demonstrate to the licensed dealer the firearm that is the subject of the transfer and the permit to carry a concealed firearm of the private person who wishes to acquire the firearm.~~

~~2. The licensed dealer shall maintain a record of the transaction in the same manner as though the licensed dealer were selling the firearm from his or her own inventory.}~~ (Deleted by amendment.)

Sec. 7.9. ~~{A private person who transfers a firearm to another private person in violation of NRS 202.254 or section 7.85 of this act:~~

~~1. For a first offense:~~

~~(a) Is guilty of a gross misdemeanor; and~~

~~(b) Is prohibited from possessing a firearm for a period of 2 years after the date of the conviction. If the convicted person possesses a firearm during the 2-year period in violation of this paragraph, the person is guilty of a gross misdemeanor and is prohibited from possessing a firearm for an additional period of 2 years after the date of the conviction.~~

~~2. For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.}~~ (Deleted by amendment.)

Sec. 8. NRS 202.254 is hereby amended to read as follows:

202.254 1. A ~~{Except as otherwise provided in section 7.8 of this act, a}~~ private person who wishes to transfer a firearm to another ~~{private}~~ person may, ~~shall,~~ before transferring the firearm, request that the Central Repository for Nevada Records of Criminal History perform ~~{obtain from a licensed dealer}~~ a background check on the person who wishes to acquire the firearm , ~~in accordance with the provisions of this section.~~

2. The ~~{To obtain a background check from a licensed dealer as required pursuant to subsection 1, the private}~~ person who requests the information pursuant to subsection 1 shall provide the Central Repository with identifying information about the person who wishes to acquire the firearm. ~~{wishes to transfer the firearm and the private person who wishes to acquire the firearm must appear jointly at the place of business of a licensed dealer during the licensed dealer's normal business hours and request the licensed dealer to obtain a background check on the private person who wishes to acquire the firearm. The private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm must comply with any requirement necessary for the licensed dealer to obtain the background check.}~~

3. ~~{A licensed dealer who receives a request to obtain a background check pursuant to subsection 2 shall comply with all requirements of federal and state law concerning the transfer of a firearm as though the licensed~~

~~dealer were selling the firearm from his or her own inventory, including, without limitation, 18 U.S.C. § 922, except that the licensed dealer must obtain the background check from the National Instant Criminal Background Check System and not the Central Repository.~~

~~4.~~ Upon receiving a request from a private person pursuant to subsection 1 and the identifying information required pursuant to subsection 2, the Central Repository shall within 5 business days after receiving the request:

(a) ~~Perform a~~ ~~f, obtaining any necessary information and complying with any requirements of state or federal law to obtain the background check, the licensed dealer shall contact the National Instant Criminal Background Check System to initiate a~~ background check on the ~~private~~ person who wishes to acquire the firearm ~~f~~; and

(b) Notify the person who requests the information whether the information available to the Central Repository indicates that the receipt of a firearm by the person who wishes to acquire the firearm would violate a state or federal law.

4. If the person who requests the information does not receive notification from the Central Repository regarding the request within 5 business days after making the request, the person may presume that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law.

5. The Central Repository ~~licensed dealer shall inform the private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm of the response from the National Instant Criminal Background Check System and the consequences of the response. If the response is that the transfer would violate state or federal law, the licensed dealer must notify the parties of that fact and the transfer shall not take place.~~

~~6. A licensed dealer~~ may not charge a [reasonable] fee ~~for~~ of not more than \$30 for performing a background check and notifying a person of the results of the background check pursuant to this section.

6. [The failure of a person to request the Central Repository to perform a background check pursuant to this section before transferring a firearm to another person does not give rise to any civil cause of action.]

~~f 7. A licensed dealer who willfully and intentionally requests a background check from the National Instant Criminal Background Check System for any purpose other than to comply with the provisions of this section, or who willfully and intentionally disseminates any information obtained from a background check performed pursuant to this section to a person other than to the private person who requested the background check or to the person who is the subject of the background check is guilty of a misdemeanor.~~

~~8. A person who, in connection with the transfer or attempted transfer of a firearm pursuant to this section, willfully and intentionally makes any~~

~~materially false oral or written statement or who willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive a licensed dealer is guilty of a category E felony and shall be punished as provided in NRS 193.130.] A private person who transfers a firearm to another person is immune from civil and criminal liability for failing to request a background check pursuant to this section or for any act or omission relating to a background check requested pursuant to this section if the act or omission was taken in good faith and without malicious intent.~~

7. The Director of the Department of Public Safety may request an allocation from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269 to cover the costs incurred by the Department to carry out the provisions of subsection 5.

Sec. 9. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(b) Is a fugitive from justice; ~~or~~

(c) Is an unlawful user of, or addicted to, any controlled substance ~~[-]~~; or

(d) *Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.*

↪ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility ~~[- or]~~ *by a court of this State, any other state or the United States;*

(b) *Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;*

(c) *Has been found guilty but mentally ill in a court of this State, any other state or the United States;*

(d) *Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or*

(e) Is illegally or unlawfully in the United States.

↪ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 10. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell, *transfer* or otherwise dispose of any firearm or ammunition to another person or purchase a firearm on behalf of or for another person with the intent to transfer the firearm to that person if he or she has ~~factual knowledge~~ *reasonable cause to believe* that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the other person has received a pardon and the pardon does not restrict his or her right to bear arms; ~~for~~

(b) ~~Is a fugitive from justice;~~

~~(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or~~

~~(d) Is illegally or unlawfully in the United States.] Is prohibited from possessing a firearm pursuant to NRS 202.360. ~~for~~; or~~

(c) Is a known member of a criminal gang as defined in NRS 193.168.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) or NRS 179A.163.

4. *For the purposes of this section, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.*

Sec. 11. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that the person is likely to harm himself or herself

or others if allowed his or her liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, *within 5 business days after issuing the order*, on a form prescribed by the Department of Public Safety, a record of ~~such~~ the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System ~~and the National Crime Information Center~~.

5. As used in this section ~~the following definitions apply~~:

(a) "National Crime Information Center" has the meaning ascribed to it in section 4.1 of this act.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 12. NRS 436.123 is hereby amended to read as follows:

436.123 The Division is designated as the official state agency responsible for developing and administering preventive and outpatient mental health services, subject to administrative supervision by the Director of the Department. It shall function in the following areas:

1. Assisting and consulting with local health authorities , *local governments and all law enforcement agencies in this State* in providing community mental health services, which services may include prevention, rehabilitation, case finding, diagnosis and treatment of persons with mental illness, and consultation and education for groups and individuals regarding mental health.

2. Coordinating mental health functions with other state agencies.

3. Participating in and promoting the development of facilities for training personnel necessary for implementing such services.

4. Collecting and disseminating information pertaining to mental health.

5. Performing such other acts as are necessary to promote mental health in the State.

Sec. 13. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a patient communicates to a mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable person and, in the judgment of the mental health professional, the patient has the intent and ability to carry out the threat, the mental health professional shall make a reasonable effort to communicate the threat in a timely manner to:*

(a) *The person who is the subject of the threat;*

(b) *The law enforcement agency with the closest physical location to the residence of the person; and*

(c) *If the person is a minor, the parent or guardian of the person.*

2. *A mental health professional who exercises reasonable care in determining that he or she:*

(a) *Has a duty to communicate a threat pursuant to subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information.*

(b) *Does not have a duty to communicate a threat pursuant to subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for any damages caused by the actions of a patient.*

3. *The provisions of this section do not:*

(a) *Limit or affect the duty of the mental health professional to report child abuse or neglect pursuant to NRS 432B.220; or*

(b) *Modify any duty of a mental health professional to take precautions to prevent harm by a patient:*

(1) *In the custody of a hospital or other facility where the mental health professional is employed; or*

(2) *Who is being discharged from such a facility.*

4. *As used in this section, "mental health professional" includes:*

(a) *A psychiatrist licensed to practice medicine in this State pursuant to chapter 630 or 633 of NRS;*

(b) *A psychologist who is licensed to practice psychology pursuant to chapter 641 of NRS;*

(c) *A social worker who:*

(1) *Holds a master's degree in social work or a related field;*

(2) *Is licensed as a clinical social worker pursuant to chapter 641B of NRS; and*

(3) *Is employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

(d) *A registered nurse who:*

(1) *Is licensed to practice professional nursing pursuant to chapter 632 of NRS; and*

(2) *Holds a master's degree in psychiatric nursing or a related field;*

(e) *A marriage and family therapist licensed pursuant to chapter 641A of NRS; and*

(f) *A clinical professional counselor licensed pursuant to chapter 641A of NRS.*

Sec. 13.5. 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning criminal access to firearms, improving school security and ascertaining ways to improve Nevada's reporting requirements to ensure that persons who are disqualified from owning a firearm for mental health reasons are reported to the National Instant Criminal Background Check System.

2. The committee must be composed of six Legislators as follows:

(a) Two members appointed by the Majority Leader of the Senate;

(b) One member appointed by the Minority Leader of the Senate;

(c) Two members appointed by the Speaker of the Assembly; and

(d) One member appointed by the Minority Leader of the Assembly.

3. The study must include, without limitation, an analysis of the laws, regulations and policies of this State:

(a) Regulating the access of criminals to firearms;

(b) Relating to the safety of pupils in the schools in this State;

(c) Concerning the disqualification of persons from the right to own a firearm for mental health reasons; and

(d) Reporting persons who are so disqualified to the National Instant Criminal Background Check System.

4. The committee shall consult with and solicit input from individuals and organizations with expertise in matters relevant to the purposes of the study conducted pursuant to this section.

5. The committee shall make findings and develop recommendations for the improvement of, without limitation:

(a) The regulation of the access of criminals to firearms;

(b) The safety of pupils in the schools of this State;

(c) The disqualification of persons from the right to own firearms for mental health reasons; and

(d) The reporting of persons who are so disqualified to the National Instant Criminal Background Check System.

6. The committee shall submit a report of its findings and recommendations, including, without limitation, recommendations for legislation, to the 78th Session of the Nevada Legislature.

~~Sec. 14. [As soon as practicable after the effective date of this act, the Central Repository for Nevada Records of Criminal History shall enter into an agreement with the Federal Bureau of Investigation, if necessary, and take any other necessary actions to allow licensed dealers, as defined in section 7.4 of this act, to contact the National Instant Criminal Background Check System, as defined in NRS 179A.062, to initiate a background check by the National Instant Criminal Background Check System as required pursuant to section 8 of this act.] (Deleted by amendment.)~~

~~Sec. 15. [1. This section and section 14 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 7, inclusive, and 9 to 13, inclusive, of this act become effective on October 1, 2013.~~

~~3. Sections 7.1 to 8, inclusive, of this act become effective on January 1, 2014.] (Deleted by amendment.)~~

Senator Roberson moved the adoption of the amendment.

Remarks by Senators Roberson, Jones, Hardy and Spearman.

SENATOR ROBERSON:

Thank you, Mr. President. Amendment No. 820 to Senate Bill No. 221 maintains existing language regarding mental health. It replaces the current language regarding public-party transactions and provides for three things: (1) it provides immunity from liability for private-party sellers who voluntarily perform background checks and it waives the central repository fee to encourage more voluntary background checks between private parties; (2) it creates a prohibition on straw purchasers and/or transfers in the State of Nevada based on the Fraudulent Firearms Protection Act. A straw purchase is any purchase where when an agent agrees to acquire a firearm for someone who is prohibited from purchasing or possessing the firearm legally for him or herself, and the agent transfers the firearm to that person after purchase; (3) the amendment proposes an interim study to address criminal access to firearms, ways to improve school security and to ascertain ways to improve Nevada's reporting to ensure that individuals who are disqualified from owning a firearm for mental health reasons are reported to the National Instant Criminal Background Check System.

SENATOR JONES:

Thank you, Mr. President. I appreciate my colleague from Senate District No. 20 coming to me this morning with Amendment No. 820 to Senate Bill No. 221. I have worked on this bill for a few months now. I worked on it with my colleagues from the other side of the aisle to try and resolve concerns that had been raised, but I was not able to get there in Committee. I went and spoke to my colleague from Henderson a few weeks ago. I asked for his input. It was not until this morning that he came to me with any proposal.

With regard to the proposal, I will say that when it comes to straw purchases this amendment will not do anything because they are already barred under federal law. With regard to some of the other proposals, again, I do not think they will have any effect. I want to address the concept of gutting the background check section and replacing it with a study.

I have learned around here that when somebody does not want to make a tough choice on a bill, what they do is water it down to a study. I am not immune from this practice myself, we have all done it. But, this is not an issue we need to study anymore. It has been studied and

debated numerous times in state houses and in the United States Congress for more than 20 years. Too many innocent children and college students have been killed or maimed because of political foot-dragging. Too many women have been shot dead in their homes by husbands or boyfriends because law makers wring their hands and cower to a small but vocal minority.

Down the street here in Carson City, five National Guardsmen were gunned down while eating breakfast. Their mistake? Going to the International House of Pancakes that fateful day. Do not listen to me. I am just a naïve, idealistic freshman. Please, listen to the sheriffs. Listen to Sherriff Haley, Sherriff Furlong, Sherriff Gillespie, former Sherriff Bill Young. Listen to the cops on the streets. Listen to the mental health professionals. Listen to the family members of victims like Tracy Kelly who had to celebrate what would have been her husband, Major Heath Kelly's, 36th birthday this week, alone. Her kids are without a father because he was gunned down at the International House of Pancakes down the street.

We do not need a study to tell us that it is unconscionable that one of our National Guardsmen can survive a tour of duty in Iraq or Afghanistan, but be shot dead at a restaurant by a paranoid schizophrenic who purchased and sold multiple guns including an Uzi. More than 4,300 reported gun deaths have occurred just since the shooting in Newtown, Connecticut, in December. Every year 32,000 people die at the hands of persons with guns, many obtained illegally. That is 64,000 gun deaths that could be anticipated in this country if we decided to conduct yet another study and sit on our hands.

What we need right now is sensible and meaningful legislation that respects the rights of law-abiding gun owners while taking an important step in the direction of keeping guns out of the hands of felons, domestic violence perpetrators and those who are mentally ill. We need to take action, not do another study.

SENATOR HARDY:

Thank you, Mr. President. My heart is full. I had the opportunity to have people come, who have been personally affected by the violence that has been put upon them, their neighbors and their loved ones. I feel we all would like to reach out and help anyone who has been so affected. In this political Body, we have tried to work together on some things. This is one of them. I think there are many pieces to the puzzle, and there are pieces missing: one is the prevention piece, to have someone intervene sooner and closer with a response time. I do not know that the amendment gets there. I do not know that the bill gets there. In fact, I know it does not.

I have asked on multiple occasions about different countries such as Israel where everyone has a gun. From a medical standpoint we cannot predict when people are going to have a psychotic break. Nobody can put that into a bill. We have looked at this and tried to assess whether one thing prevents another. I wish it could work that way.

I still have major concerns. Amendment No. 820 to Senate Bill No. 221 helps my concerns around what it is we need to know and what is it we can do. I am supporting the amendment.

SENATOR SPEARMAN:

Thank you, Mr. President. I will try to get through this. This bill is personal for me. I do not know if there are any other Legislators who have experienced the loss of two family members because of gun violence. My oldest brother did two tours of duty in Vietnam. He came home on May 14. Yesterday was the anniversary of his death. He was killed seven days after he returned.

My youngest brother was killed in 2006 by someone who had an unregistered gun.

I agree with my colleague when he said it is time for us to do something sensible. We have heard all of the academic arguments about whether or not we can predict mental illness, whether this goes too far or whether this steps over the bounds of the Second Amendment to the *United States Constitution*. Unless you experience this personally, perhaps, it is difficult for you to understand.

Senate Bill No. 221 does nothing to abort or take away anyone's Second Amendment rights. What the bill does is it brings sanity to the process. I will reject Amendment No. 820 because I think it controverts the intent of the sponsor's bill.

Motion lost on a division of the house.

Remarks by Senators Jones, Smith, Atkinson, Ford, Settlemeyer, Hutchison, Brower, Segerblom and Kihuen.

SENATOR JONES:

Thank you, Mr. President. Senate Bill No. 221 sets out to accomplish the goal of improving public safety, and in particular, keeping guns out of the hands of felons and mentally ill individuals who are found to be a danger to themselves or others.

First, the bill requires faster reporting of mental health adjudications by the courts to the State central repository which feeds into the Federal Bureau of Investigation's National Instant Criminal Background Check System, or "NICS" database. Courts that are now reporting in 45 days or more will now be required to do so within five days. Second, the bill directs the Department of Health and Human Services to expand collaboration efforts with mental health professionals, law enforcement, local governments and others to ensure that those with mental illness do not fall through the cracks. Third, the bill establishes a duty for mental health professionals to report to the police and warn a potential victim when a patient expresses a specific intent to harm or kill another person. Nevada is one of only a handful of states in the Nation without a statutory duty to warn.

Finally, Senate Bill No. 221 expands background checks for private gun sales. Certain transfers, including between family members, upon the death of a family member, to a doctor or mental health professional or at a sporting event, are excluded. Since the Brady Handgun Violence Prevention Act was implemented more than two million felons, domestic violence perpetrators and mentally ill individuals were denied weapons because they failed background checks. Background checks work, period. I am grateful for the strong support from our law enforcement community for Senate Bill No. 221.

Amongst those supporting the bill are the Nevada Sheriffs and Chiefs Association, Las Vegas Metropolitan Police Department, Sheriff Haley from Reno, Sheriff Furlong from Carson City, Sheriff Pierini from Douglas County, Sheriff Gillespie and former Sheriff Bill Young from Clark County, Las Vegas Police Protective Association, Peace Officers Research Association and many others. I am grateful for the support of domestic violence advocates concerned we have the highest incidence of gun deaths in domestic violence crimes in the Nation. I am grateful for the support of mental health professionals including Dr. Dickson on behalf of the Nevada Psychiatric Association. I am grateful for the victims and family members of so many who have shared their touching stories over the last two days with many of you. They put a face to lives that are forever changed by gun violence.

As law makers we are asked every day to take a stand on issues that are important to our community, important to our State. Today, I stand with law enforcement officials. I stand with mental health professionals. I stand with these victims and family members of victims of senseless violence. I stand with the 86 percent of Nevadans in calling on my legislative colleagues to support Senate Bill No. 221 and expand background checks for private gun sales.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Senate Bill No. 221. Let me start by saying I am an avid supporter of the Second Amendment to the *United States Constitution*. I am a gun owner. I hunt. I shoot for recreational purposes. I have a husband who is as avid a hunter as you can find. I come from a long line of hunters. My father was a gunsmith and a licensed dealer before he left us. My brothers are all hunters. I have grown up in the world with guns and with hunting. In fact, I received my Hunter Safety Certificate before it was age-appropriate, in Arizona. My parents let me go with my older brothers. This is the life I have lived.

When we first started talking about the possibility of this legislation, I thought it was going to be hard for me given the life I lead. In my Caucus, I am the one who represents a district in northern Nevada. I socialize with hunters. I thought a lot about how I was going to feel about this when it finally came about. I heard the bill twice because I was on both the Senate Committee on Health and Human Services and the Senate Committee on Finance where we have discussed this bill. I surprised myself when we began to consider passing it in the Senate Committee on Health and Human Services, and I realized how strongly I feel about this issue.

In December, after the tragedy in Newtown, Connecticut, I had a visceral reaction that it is time we have some serious discussion in this Body about this issue. Let me say I have always supported the bills in this building that protect gun owners: concealed weapons permits and similar matters. I believed it was time we do something. Some time passed, and then, we had the hearing. My reaction was strong.

After that tragedy in December, we heard a lot nationally about all of the possibilities of what might come about. There was talk about restricting automatic weapons, big magazines, background checks and mental health. Nationally, the discussion seemed to really gel around mental health and background checks and what we do to keep guns out of the hands of people who should not have them because of their mental health or for other reasons. I began to seriously think about that.

This is not a panacea. This is not going to fix everything. But, I believe it really is the appropriate action to take. My colleague, the sponsor of this bill, has spent an unbelievable amount of time answering the concerns of the people who have come to him, answering the people who have come to our Committees to testify—and there have been many of them. I have been in both meetings, and I chaired both of those meetings. I appreciate all of the effort he put into addressing the concerns that were expressed.

As I said in Committee the other day, there may need to be some things that need to be fixed in the bill, but I do not think we should give up the good for the perfect. It is time that we address this issue. This does not hurt reasonable, safe, legal gun owners like me, like my husband, like my brothers. This does not hurt us. It is not about hurting anyone's rights. It is about an attempt to keep guns out of the wrong hands and giving us a path through the other provisions in the bill to address mental health issues as they relate to guns.

So, I surprised myself with how strongly I feel about this, but I do. Yesterday, on this Floor, we heard a remark about profiles of courage. I want to tell you that to me this is an act of courage for people to step up and address this serious issue of gun violence. It is a small, courageous step we can take to make a difference.

SENATOR ATKINSON:

Thank you, Mr. President. I, too, rise in support of Senate Bill No. 221. In listening to my colleague from Senate District No. 13, I began to think of some things that suggest that we are probably not doing enough. We talk sometimes, and we do not do enough of the people's work. Senate Bill No. 221 addresses a lot. The Assistant Majority Leader said we continue to want to get to the great and do not accept what is good. I think this measure is good.

I will share a personal story while trying not to get emotional. In 1990, I was attending school back East at Howard University. I received a phone call from my mom. She told me that my father had just been murdered. I will never forget that day, I looked at the clock, and it was 5:06 a.m. Eastern time. I remember getting off the phone with my mom in disbelief. I actually proceeded to go to class the next day, not realizing I was in a state of shock. I was trying not to deal with that phone call. My brother ended up having to fly out to Washington D.C. to get me a couple of days later because I would not talk about it. I did not want to deal with it.

My father was my best friend. He is also the reason I am a Raider fan. You can blame him for that. He had season tickets when I was a child. I remember going into the locker room several times because my dad knew a lot of the players. That should explain to everyone why I bleed black and silver. I have had to live 20-some years now with the fact that the person who murdered my father has never been found. I have no doubt in my mind that he has probably gone on as well. I make myself believe that to get through certain things and certain days. It is still tough for me.

I think about that, and I think about where we are today. Like my colleague from Senate District No. 13, I believe in our Second Amendment rights. I, too, am a gun owner. I am probably one of the few in our Caucus who is endorsed by the National Rifle Association. I have a concealed weapons permit, and I carry. I believe in it. I also believe guns should be in the right hands. Does this get us all the way there? It does not, but it does get us to a better place.

I said I was not going to say this—so I will not say any names—but there is a provision in this bill that means a lot to me. We talked about it in our Caucus. The provision allows a gun owner to loan it to someone for the weekend, to someone who does not have a license to carry,

or a gun should not be in their hands—I was in the midst of some of this earlier this Session. Someone loaned a gun to a member of the other House. I was against it then, and I am against it now. I am happy that my colleague is addressing that because it is a loophole in our law that should not exist. I hope that my colleagues understand that and understand that this bill is sure better than nothing.

I applaud the efforts of my colleague and hope that this Body can do something good today.

SENATOR FORD:

Thank you, Mr. President. I rise in support of Senate Bill No. 221. To my colleagues from Senate District No. 1 and Senate District No. 4, my condolences to you both, and thank you for having the courage to share those stories with us. They are informative for me. Unlike my colleagues from Senate District No. 13 and Senate District No. 4, I am not a gun owner. I have never owned a gun. I have never shot a gun. In fact, I have avoided guns my whole life. The members of the Senate Committee on Natural Resources know that I do not go outside, let alone go outside to shoot guns. That said, I have avoided it primarily because of the neighborhoods I grew up in. Guns were prevalent. Many of my good friends are either dead or in jail because of gun violence. I have avoided guns for that reason.

I know that what I just said might be fodder to those who oppose my position, but as much as I have avoided guns, I have also appreciated the *United States Constitution* and the rights it affords us as citizens—including the Second Amendment—which is the reason why I can support this bill right now. We are all familiar with the *District of Columbia v. Heller* decision that struck down Washington D.C.’s law related to gun ownership. I am familiar with that particular case. I am also familiar with some of the things that case said, and I think they are appropriate for us to consider now. It cautioned that the Second Amendment should not be understood as conferring a “right to keep and carry any weapon whatsoever, in any manner whatsoever and for whatever purpose.” It also identified a non-exhaustive list of presumptively lawful regulatory measures including “longstanding prohibitions” on firearm possessions by felons and the mentally ill, as well as laws forbidding firearm possession in sensitive places such as schools and government buildings.

Here is the key: imposing conditions on the commercial sale of firearms. That is all we are talking about here: imposing a condition on the commercial sale of firearms. I do not find it persuasive that a background check is too onerous and, therefore, violates the Second Amendment.

The court also noted that the Second Amendment is consistent with laws we have already had on our books that banned “dangerous and unusual weapons.” It is not uncommon to be able to ban those types of things. Although this bill does not go that far, I mention that to say that we are not talking about an outright attack and assault on the Second Amendment. In fact, we all know that every single one of our constitutional amendments can be abridged in some form or fashion—every single one. What we are talking about here is an effort to shield ourselves from those who may obtain guns who should not have them.

I applaud my colleague to the south of my district for bringing this bill, and I am happy to support it.

SENATOR SETTELMAYER:

Thank you, Mr. President. I appreciate the comments of my colleague from Senate District No. 11. However, Senate Bill No. 221 goes a little further than commercial sales. It may be uncommon for some, but the loaning of guns from individual to individual in my community is not that strange at all. In that respect, I stand in opposition to the bill.

One of the issues I have with the bill is that the exceptions swallow the rule. There are so many exceptions in it. It may feel good to pass it, but I am afraid that is all it is: feel-good legislation. Some of the examples that were cited, such as the shooting at our local International House of Pancakes, concern me too. If this bill would have been in effect, it would not have changed the outcome in any way, shape or form. You can cite examples, but when you apply the rule that you are trying to put to it, it does not accomplish what you intend.

One of the things I liked about the amendment to this bill that came forward was the right to check, voluntarily, a gun. I had a situation where I had a friend whom I loaned a car to. I got the vehicle back, and there was a gun in the glove box. I called and asked what was going on. I was

told, "My friend put it there. You can give it back." I told him I do not operate that way. I just do not give someone a gun even if you said you left it there. I do not do that. I went down to our local law enforcement and asked them to run the gun and turn it over to the lawful owner. They declined saying they had no business with that. They would not run it for me. They refused. They said they had no right to run the gun, no obligation and no knowledge of it. I pressed that it should be checked, but again, they declined. I was refused the ability to run the gun and make sure it was clear. Luckily, I had another friend on the force who did me a personal favor. He conveyed the gun to the owner because I felt uncomfortable. The amendment that was offered would have allowed that.

One of the other issues that the bill does not really speak to is security guards who do not own their own guns. They come to work, check out a gun and put it in their holster. At the end of the night, they put it back. The way I am reading the bill, that is a transfer. Are they going to have to go to a Federal Firearm Licensed dealer every time? That seems rather onerous and rather problematic—you are potentially decreasing safety by having these guys have to do that.

To me, this bill is an infringement on individuals who do lawfully carry guns and who have the right to carry guns, those who are loaning guns to one another lawfully. It is a burden to them.

Let us face it. The criminals are going to ignore this law. We will not have the effect we desire.

I appreciate much the personal stories that have been shared here, today. My dad, too, died at the hand of a gun, but I do not blame the gun.

SENATOR HUTCHISON:

Thank you, Mr. President. Sometimes, I wish there was a way we could vote the way the courts can vote, which is concur in part and dissent in part.

First, I want to thank my friend and colleague from Senate District No. 9. He knows of my affection and respect for him. I know he has worked hard. He has spent many hours on this bill. I know there are those of us in this room who share his concerns. We all have strong feelings about gun violence. We would all vote for a bill—in fact, we all support laws—that outlaws gun violence. We would all vote for a bill against criminals killing with guns. There are laws that do that too. We would all vote for innocent victims to be spared the hand of violence. We would all do what we could to spare the lives of the 32,000 who have died by guns, and the 4,300 who have died by guns since the tragedy at Sandy Hook Elementary School in Newtown, Connecticut. The reality is that we have to eliminate all criminal activity in this Country, and in this world, in order to accomplish this because criminals kill people.

I am a strong supporter of background checks. I do agree with my friend from Senate District No. 9 that background checks work. I believe there is strong support, generally, for that. Indeed, the part of Senate Bill No. 221 I concur in is a large part of the bill: the central repository record keeping improvements, the mental health professionals' additional reporting requirements that have been enhanced. These are great improvements directed at the mental health factors that have led to some of the gun violence we all know about.

However, about the same percentage of those who support background checks also believe the government has no business knowing what guns you own. Recent events have underscored the point. We cannot keep the government out of our personal lives and our tax records. It gives me great concern when we give the government more and more private information, particularly about our gun purchases.

As I said, there are a number of wonderful things in Senate Bill No. 221 for which I applaud my colleague. I see where I, as a concealed weapons permit holder, am excluded from the background check under Section 7.81. However, I am concerned about the records issue I referenced because even though I have undertaken extensive training, submitted myself to a background check, have been fingerprinted and run through the databases, and am determined to be clean, I am okay. Yet, under this bill, if I engage in a private transaction with a friend of mine to buy a gun, I have to go down to Cabela's or somewhere to a Federal Firearm Licensee, and they have to record the fact that I am purchasing a gun from someone. I do not agree with that. I do not believe that the government has any business possessing that information after I have already passed a background check and given my fingerprints. Why does the government in that

situation have to have a record of me, a good guy, purchasing a handgun, rifle or any other type of weapon.

To me, as important as background checks are, equally important to me is not authorizing the government to maintain a list of the guns that I own. That is the part of Senate Bill No. 221 from which I dissent. For that fundamental reason, I will not support the bill. But again, I appreciate what my friends who do support the bill are seeking to address, particularly the mental health component of the bill. Those who have concealed weapons permits—those who are serious gun owners like my friends are from Senate District No. 4 and Senate District No. 13—are well-intended, sincere and honorable and can differ on the various provisions of the bill. For the reasons I discussed, I will respectfully dissent from supporting this bill.

SENATOR BROWER:

Thank you, Mr. President. Let me first of all thank the sponsor of Senate Bill No. 221. As has been said, he has done a lot of hard, difficult work on this issue. We all commend him for that. There are some things about this bill, as have been discussed, that are laudable and can make a difference. The faster reporting of mental health information is good. Better collaboration between social services and law enforcement is a “no brainer.” Enhancing the duty to report by mental health professionals is also a sound concept. These are logical reforms. But, the bill has some defects that I cannot look past, and I cannot support the bill as a result.

I think I am the only member of this Body who has actually prosecuted gun violence, who has actually dealt with the victims. I do not say that to suggest that my experience gives me any kind of monopoly on good ideas in this area. It certainly does not give me a monopoly on the truth when it comes to these difficult issues. But, I have been there; I have done that, and the type of street crime that is epidemic in many of our cities—including cities that have banned handguns for the most part like Washington D.C. and Chicago, and the type of street crime I suspect was the cause of some of the tragic stories we have heard here today—will not be addressed by this bill.

Here are the problems with the bill as I see it. And, unfortunately, the failed amendment could have addressed at least some of these issues. First of all, it is incredibly overbroad. As we have heard, Senate Bill No. 221, for the first time, would subject private transactions—not commercial transactions—to background checks. I think we are all in support of background checks for commercial transactions. When I hear that 86 percent of Nevadans support background checks, I know what that means. I have received the emails and the phone calls like all of you have. I have talked with a couple of constituents who say, “I support background checks. Do you?” I say, “Absolutely, I do.” They conclude I will support a bill like Senate Bill No. 221, and I tell them, “Not exactly and here is why.” The constituents I have talked to do not understand what this bill does. I would submit to the Body that the 86 percent of Nevadans who support background checks do not understand what this bill would do. The bill is overbroad in that it would require background checks for all private transactions. If I want to buy my neighbor’s shotgun, under this bill, we would have to go down to a sporting goods store and document that transaction. That is flat-out illogical.

The second problem I see is that the bill is essentially unenforceable. There are an estimated 300 million guns in this country. Trying to create and impose some kind of new regulatory regime on the ownership and sale of firearms by law-abiding citizens, I would submit to you, is bureaucratically impossible—forget about the Second Amendment issues—it is impossible. And finally, if you are a proponent of expanded universal background checks, this is not the bill for you. Listen to the list of loopholes I have been able to find in the bill; private transactions would be subject to background checks unless the transfer is: to a holder of a concealed weapons permit, of an antique gun, is a gift to a family member, via a will, to another for the defense of their property, temporary and takes place at a shooting range or while hunting, for the purpose of repair or maintenance, by a person in the military who wants to transfer their weapon to a family member or to a medical doctor or mental health professional. There may be other loopholes. I stopped counting at ten. It seems to me, as has been suggested earlier, the loopholes swallow up this proposed new law.

Given all of that, I will tell you I do believe we should do something. We do have a problem. The bill does include some positive reforms, especially with respect to mental health issues. But

let us not fool ourselves, and let us not fool our constituents. Passing Senate Bill No. 221 will do little if anything beyond making some of us feel good about passing a bill. Sometimes, that is good enough. We pass bills every session that are feel-good bills, that are symbolic. I have been the sponsor of at least one resolution this Session that was nothing more than symbolic but important in terms of its symbolism. Sometimes, that is okay.

When it comes to getting a handle on the real problem, which in my view is guns in the hands of mentally ill people who commit the horrendous crimes that we have been talking about on the Floor today, a feel-good piece of legislation is not good enough. Let us get at the problem. Let us adequately fund our mental health system. Let us do more—as this bill does in part—to make sure those who are not mentally competent to handle firearms cannot get firearms. Let us address that. But, let us not subject law-abiding citizens to an unprecedented level of government intrusion so we can say we passed a bill.

I want to again thank the sponsor of the bill for his efforts in this regard. There is a bill out there that accomplishes the goals I am talking about and that we are all concerned with. This is not that bill.

SENATOR SEGERBLOM:

Thank you, Mr. President. I want to bring to this moment a little bit of history. I have been in this State a long time. I was born and raised here. For the first time in my lifetime, this Body has been able to actually debate gun control. How much progress is that? For the first time we are discussing this without the National Rifle Association on our backs or fear of talking about it. I appreciate everyone here being willing to talk about this issue. It is a crisis, and it is a cancer. There are too many guns in this Country. We have guests sitting in the Chamber, today, who have come here from all over the Country to watch us and ask us to please do something. We cannot let the perfect get in the way of the good. We have to do something.

My colleague here says, “This is not good enough. What are we going to do?” We have to start somewhere, and we are starting somewhere today. Senate Bill No. 221 will pass today. We start today. This is not the end. It is the beginning.

I thank everyone—for the first time in Nevada’s history—for being willing to stand up and talk about it. I also want to thank the 11 of you who are going to vote in favor of this bill. We are making a positive change in our State. This is not the Nevada I grew up in. This is a new Nevada that we can all be proud of.

SENATOR JONES:

Thank you, Mr. President. I appreciate the comments from all of my colleagues here, today, and for the opportunity which my colleague from southern Nevada has acknowledged—the opportunity to have a real debate about this issue.

I want to briefly address one or two of the issues that were raised by a few of my colleagues. I heard from my colleague from Senate District No. 17 that he would like to go to a voluntary background check system. We have that now. It is in statute. We heard about it in Committee, and I asked the question of Julie Butler from Central Records, how many people have taken advantage of that opportunity that currently exists in statute to get a voluntary background check. She indicated five. Five people in history have taken advantage of a voluntary background check that was proposed in the failed amendment to Senate Bill No. 221. It does not work.

I have heard from many the argument that a background check is not going to stop a criminal because a criminal will not go through the process. If that were the case, then in the 20 years since we have had the Brady Handgun Violence Prevention Act in effect, the number of denials would be zero. But, it is not. Two million criminals, domestic violence perpetrators and mentally ill individuals have been denied access to firearms. This bill is not going to prevent all criminals from obtaining guns, but if it prevents one of those two million individuals from committing a crime, it is worth it. It is worth it not to have people, like our guests over here, suffer through what they have experienced: losing a son or a husband. It is worth not having members of our own National Guard gunned down, down the street.

With regard to the remarks of my colleague from Senate District No. 15, I have watched him in Committee vote 100 percent with our law enforcement officials—every time they come up to the lectern. Every time he votes with our law enforcement. I recognize that he and others on the

Committee value the opinions of law enforcement. I am confused why, on this vote, they will not listen to the sheriffs that oversee their own districts: Sheriff Pierini, Sheriff Furlong, Sheriff Gillespie, Sheriff Haley. Why in the world do we listen to them on every other bill but not on Senate Bill No. 221? I have heard my colleagues on the Senate Committee on Judiciary ask to hear from our domestic violence representatives and go along with them—as we should. Except this bill is one where we should ignore their opinions? What Sue Meuschke has to say is Nevada has the highest rate of gun violence in domestic violence situations. But, let us not listen to her on this vote.

I hear some of the examples that have been cited here, today, would not be prevented by this legislation—and perhaps not. I am not here to tell you that every crime committed with a gun is going to be prevented by this legislation. But, let me give you one example: my colleague from Senate District No. 15, he served as the United States Attorney for a few years. He spent a lot of time in the Lloyd D. George Federal Courthouse in Las Vegas. Three months after he left that office, I happened to be two blocks away at the State Courthouse when security went on alert because two blocks away a man named Johnny Lee Wicks walked into the Federal Courthouse and gunned down United States Marshalls. I served in that Courthouse. I had the opportunity early in my career to work for a judge in that Courthouse, and I knew the United States Marshalls who protected us every day. Johnny Lee Wicks was a convicted criminal. He was able to purchase a gun because we do not require background checks of private-party sales. No, not every criminal is going to abide by the law. That is why they are criminals.

But, again, two million people have been denied firearms as a result of background checks. Background checks work. I encourage your support.

SENATOR BROWER:

Thank you, Mr. President. In response to my colleague from Senate District No. 9, as has been discussed, I led federal law enforcement in our district here for a time. Federal and local law enforcement professionals in this State know me, and I know them. Not a single one has talked to me about Senate Bill No. 221. We have parades of lobbyists outside our offices every day. I, like most of you, despite all of that lobbying, do what I think is right. It is true, I support law enforcement whenever I can in this Body, and I am happy to do so. I think most of us do. I am proud of that. They are not always right, but in my view, they are mostly right. On this issue I have not talked to a single law enforcement official. They know where to find me. They know I have an open door, and they know that, more often than not, I am sympathetic to their views on issues. When it comes to important issues, they seek me out. I have not had a single conversation. That is just to set the record straight. It does not matter because, again, I just try to do the right thing. It does not matter who is on the list of supporters or who is opposed. We look at the bills. We look at the *Nevada Constitution*. We look in our heart of hearts, and we try to do what we think is best for the State—and for all of the people of this State. That is all I have tried to do on this bill, and on any other bill I am sure that is the same with all of us in this Chamber.

SENATOR KIHUEN:

Thank you, Mr. President. I rise in support of Senate Bill No. 221. Most of the points have already been eloquently articulated by my colleagues. I have never really said this to anyone here, but I am a Democrat and I am a gun owner—a proud gun owner just like my colleagues from Senate District No. 13 and Senate District No. 4. I take a lot of heat from my base, from some of my supporters, for this. I know when I speak at certain venues and I talk about the reasons why I own a gun, I take heat. But, I believe in the Second Amendment to the *United States Constitution*. I believe in the right to bear arms. I believe in the right to protect yourself and to defend yourself. I also believe in responsible gun ownership. If there are mentally ill people out there trying to access weapons, there should be a process to catch them.

Eighty-six percent of Nevadans and about 80 percent of Americans support background checks. We represent the State of Nevada, our constituents. When we come up here to Carson City to legislate, we do not legislate on our personal beliefs but on the interests of our constituents. When you have 86 percent of Nevadans saying they support background checks, it is incumbent on us to listen to them.

Part of the reason I own a gun, unlike my colleague from Senate District No. 11, is because of the place I grew up. I grew up in rough areas here in Nevada, California and in Mexico. I felt the

need to protect myself. I am a proud gun owner, and I proudly support the Second Amendment. I proudly support anyone who wants to own a gun responsibly. There should be a process to catch criminals and mentally-ill folks. Lastly, I believe that the victims at Sandy Hook Elementary School, Columbine, the Colorado movie theater, the Arizona shooting that injured U.S. Representative Gabrielle Giffords, my colleagues' brothers and fathers, they deserve a vote. They deserve for us to support this bill.

As my colleague from Senate District No. 3 said, the fact that we are debating guns here in the Legislature is a step in the right direction. This is not a perfect bill, but again, it is a step in the right direction. I hope my colleagues join me in supporting this bill. I thank my colleague from Senate District No. 9 for his hard work. I have seen him working on this bill for almost a year now. When I was out campaigning door to door with him, he was talking about this bill to his constituents. Senator, I congratulate you, and I commend you for your efforts.

Roll call on Senate Bill No. 221:

YEAS—11.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hammond, Hardy, Hutchison, Kieckhefer, Roberson, Settelmeyer—10.

Senate Bill No. 221 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 2:15 p.m.

SENATE IN SESSION

At 4:02 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 14.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Assembly Bill No. 14 revises various provisions governing persons who are engaged in the sale of vehicles. Specifically, the bill deletes a provision requiring that the application for licensure of a salesperson who holds a temporary permit be denied if that person ceases to be employed as a salesperson by a licensed and bonded dealer, lessor or rebuilder. It also expressly prohibits the person from engaging in the activity of a salesperson during the period in which the person is not employed as a vehicle salesperson.

Roll call on Assembly Bill No. 14:

YEAS—21.

NAYS—None.

Assembly Bill No. 14 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 44.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 44 prohibits a homeowners' association from regulating the manner in which containers for collection of solid waste or recyclables are stored on the premises of a residential unit with curbside service, except as provided in the bill itself. This measure authorizes a homeowners' association to adopt reasonable rules regarding the location, screening and storage of containers when the containers are not in the collection area, and the conditions under which containers may be placed in the collection area. The measure allows such rules to require the storage of containers in the rear or side yard of a unit, if such locations exist. The bill requires any rules adopted by the homeowners' association to allow the storage of containers outdoors and to comply with all applicable codes and regulations.

Roll call on Assembly Bill No. 44:

YEAS—21.

NAYS—None.

Assembly Bill No. 44 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 66.

Bill read third time.

Remarks by Senator Kihuen.

Thank you, Mr. President. Assembly Bill No. 66 requires the State Board of Equalization to provide a 30-day notice, rather than a 10-day notice, to interested persons if the Board proposes to increase the valuation of any property on the assessment roll. The bill also eliminates the requirement that the State Board of Equalization provide notice by registered or certified mail, that the Board propose an equalization action to increase the property value of a class or group of properties. The State Board must still provide notice to the taxpayers who may be affected by these actions by First Class mail.

Roll call on Assembly Bill No. 66:

YEAS—21.

NAYS—None.

Assembly Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 95.

Bill read third time.

The following amendment was proposed by Senator Atkinson:

Amendment No. 819.

"SUMMARY—Revises provisions governing prescription labels. (BDR 54-648)"

"AN ACT relating to pharmacy; revising provisions authorizing a pharmacist or practitioner to indicate on a prescription label if a generic drug has been substituted for a drug prescribed by brand name; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a pharmacist or practitioner to indicate on the label of a prescription that a generic drug has been substituted for a drug

prescribed by brand name unless the indication is prohibited by the practitioner who prescribed the drug. (NRS 639.2587) This bill requires a pharmacist or practitioner to make such an indication ~~[the first time that the generic drug is substituted for a drug prescribed by brand name]~~ unless, at the time the initial substitution of the generic drug is made, the person for whom the drug is dispensed elects not to have such an indication written or typed on the label. This bill further provides that an election by the person to indicate or not indicate a substitution on the label applies both to the fill and each refill of the same prescription.

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

Section 1. NRS 639.2587 is hereby amended to read as follows:

639.2587 If a generic drug is substituted for a drug prescribed by brand name, the pharmacist or practitioner ~~[-]~~

~~1. Shall note] shall.~~

1. Note the name of the manufacturer, packer or distributor of the drug actually dispensed on the prescription; and

2. ~~[Unless prohibited by the practitioner, may indicate]~~ Indicate the substitution by writing or typing on the label the words "substituted for ~~[-]~~," or substantially similar language, following the generic name and preceding the brand name of the drug ~~[-]~~ unless, at the time the initial substitution of the generic drug for a drug prescribed by brand name is made, the person for whom the drug is dispensed elects not to have such an indication written or typed on the label. [The provisions of this subsection apply only to the initial substitution of the generic drug for a drug prescribed by brand name.] An election to indicate or not to indicate a substitution on the label pursuant to this subsection applies to both the fill and each refill of the same prescription.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 819 to Assembly Bill No. 95 provides that an election by the person to indicate or not indicate a substitution on the label applies both to the fill and refill of the same prescription.

Amendment adopted.

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

Assembly Bill No. 98.

Bill read third time.

Remarks by Senator Kihuen.

Thank you, Mr. President. Assembly Bill No. 98 establishes procedures that a homeowners' association must follow before initiating a foreclosure on a unit or any other debt collection activity. The measure provides that if an obligation is 30 days or more past due, the association must mail a full statement of account showing all transaction history for the immediately preceding 24 months, along with a schedule of fees that may be charged if payment is not received and a proposed repayment plan.

The measure provides that no earlier than 30 days after mailing the last of the two letters, if the unit's owner so requests, the executive board must conduct a hearing to verify the past due obligation.

Finally, if a repayment plan is initiated, the measure authorizes the association to charge up to \$50 for administering the plan. If the unit's owner fails to pay an installment payment to the repayment plan, the measure authorizes the association to charge a fee of not more than \$50 to cover the costs incurred by the association.

Roll call on Assembly Bill No. 98:

YEAS—11.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hammond, Hardy, Hutchison, Kieckhefer, Roberson, Settelmeyer—10.

Assembly Bill No. 98 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 116.

Bill read third time.

Remarks by Senator Segerblom.

Thank you, Mr. President. Assembly Bill No. 116 adds concealing and aiding in the destruction or concealment of material evidence to the acts that make a person an accessory to a felony. The bill also adds the domestic partner of a principal offender to the list of persons who are not considered accessories after the commission of a felony or gross misdemeanor.

Roll call on Assembly Bill No. 116:

YEAS—21.

NAYS—None.

Assembly Bill No. 116 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 207.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 207 limits to 30 days the period for which the juvenile court may order a person, who is at least 18 years of age but less than 21 years of age and who is subject to the jurisdiction of the juvenile court, to be placed in county jail for a violation of probation or parole. This measure is effective on October 1, 2013.

Roll call on Assembly Bill No. 207:

YEAS—21.

NAYS—None.

Assembly Bill No. 207 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 240.

Bill read third time.

Remarks by Senators Segerblom, Brower, Ford, Hutchison, Settelmeyer and Hammond.

SENATOR SEGERBLOM:

Thank you, Mr. President. Assembly Bill No. 240 provides that comparative negligence is not a *bona fide* issue if the trier of fact finds no comparative negligence on the part of the plaintiff or the plaintiff's decedent.

SENATOR BROWER:

Thank you, Mr. President. Assembly Bill No. 240 has been amended at least a couple of times, and it remains, in my humble opinion, one of the most confusing bills despite its few words. The issue this bill purports to address is before the Nevada Supreme Court, currently and will be decided, hopefully, soon. The Court in its decision, we hope, will give us some clarity as to the current state of the law, which we cannot get a consensus on currently. Frankly, I think we should allow that clarity to be shared with us before we try to change the law. For that reason, I urge my colleagues to vote against this bill.

SENATOR FORD:

Thank you, Mr. President. While I agree this is certainly a confusing issue, as well as a confusing bill, I respectfully disagree that the issue Assembly Bill No. 240 is trying to address will be heard by the Nevada Supreme Court. The underlying issue as to whether joint and several liability is the state of the law relative to non-negligent plaintiffs *vis-à-vis* negligent defendants is an issue that might be decided by the Court. What Assembly Bill No. 240 attempts to address is, in cases where comparative negligence is an issue, whether a defendant must do more than just plead comparative negligence as an affirmative defense or whether you have to prove apportionment before the case is converted *de facto* into a several case. Arguably, under the current state of the law, the answer should be "yes." That is why I am advocating for this particular bill.

SENATOR HUTCHISON:

Thank you, Mr. President. I would like to clarify one point that was discussed in Committee. My friend from Senate District No. 11 would probably agree with me on this. The lawyers on the Senate Committee on Judiciary feel that there is a bit of confusion in the law, but we are not doing anything in Assembly Bill No. 240, if it passes, which would preclude a court from deciding comparative negligence issues pre-trial by way of motion practice. Perhaps, my colleague from Senate District No. 11 could confirm that. It is something I recall we all agreed on during the Committee discussions, by both the lawyers and the esteemed non-lawyers on the Senate Committee on Judiciary.

SENATOR FORD:

Thank you, Mr. President. I certainly agree that we are not attempting to establish what the law is with this bill. I want to repeat that: we are not attempting to establish the law with this bill. The assumption is under the *Buck v. Greyhound Lines* case that "joint and several" remains the state of the law, and if that is the case and the Nevada Supreme Court confirms that in the next couple of months, then, this bill will indicate that you have to do more than plead as an affirmative defense comparative negligence. It will have to be proved. At that juncture, you can convert the case to several liability if there is comparative negligence.

My colleague is correct that under this bill nothing prohibits a court from determining pre-trial—at any time pre-trial or during trial—that comparative negligence is in fact a *bona fide* issue, and it does not purport to remove any discretion from the judge in that regard. Again, I advocate and urge your support.

SENATOR SETTELMAYER:

Thank you, Mr. President. I would like to address my question to my colleague on the Senate Committee on Judiciary. If I am correct on what this establishes—say you are driving along, your turn signal did not work and you were unaware of that, and someone raced by you with another car and caused an accident because you started to move over in the lane as they were speeding past—a situation where the other car is 99 percent at fault, and the fact that your turn signal was not working is one percent of the reason for the accident. Would the person who is one percent responsible have to pay the entire case and then go after the other person for the

other 99 percent? I do not know if I am reading that correctly, but it scares me as a business person. I do not like the idea of being responsible for someone else's negligence.

SENATOR SEGERBLOM:

Thank you, Mr. President. Assembly Bill No. 240 does not really deal with the issue just mentioned by my colleague from Senate District No. 17. It just says that the person who did not do anything wrong should not have to worry about fighting someone who claims that person was partially responsible until that fact is proven. So, if you are driving down the road and two cars hit you, and you were not at fault, both of those cars have to fight between themselves as to who is responsible. You do not have to be a part of the fight.

We are trying to clarify the pleadings process when the affirmative defense of comparative negligence comes in. You cannot just say the plaintiff did something wrong. You have to actually prove it. That will come out during discovery, if at all. This does not deal with the situation you are describing. That already is the law: where the individual who is one percent at fault and the person who is 99 percent at fault are both equally, jointly and separately liable.

SENATOR HAMMOND:

Thank you, Mr. President. I rise to state why I oppose Assembly Bill No. 240. As you have heard, many of the lawyers from the Committee, who heard this bill, have described the bill and their confusion with it. The way I look at it we are supposed to be passing legislation that gives clarity. In listening to those who are talking about the bill, we cannot be sure what this bill will do in the end, and that is why I am opposing it. I understand the intent of the bill, I understand what we are trying to get at. But, we do not know what might happen to "joint and several" by passing this bill. Will we establish it in the State? Will we not establish it in the State? Was it established already? Was it not? It is a confusing issue. I was put through one semester of law school on this one issue alone, which is another reason why I am going to say no to this bill.

SENATOR BROWER:

Thank you, Mr. President. Let me say it again: the lawyers on the Committee, in this building and in this State have been informally surveyed by many of us, and cannot agree on what the law is. I have been part of a lot of debates in this Chamber over the years. As you all know, we, generally, can agree on what the law is, and we fight every day about what the law should be. In a court, of course, it is just the opposite. I have never seen a debate in four Sessions here where we could not at least agree on what the law is and then move on to fighting about what it should be. Again, we do not know what the law is, and therefore, we are not sure what the bill would do. The Nevada Supreme Court has a case in front of it, squarely on point. Let our Court decide this issue. If we do not like that decision and we think a fix is necessary, let us do that next Session. Let us not jump in and try to decide something we cannot get a consensus on with respect to what the current state of the law is.

SENATOR FORD:

Thank you, Mr. President. As the person who proffered the amendment to Assembly Bill No. 240, I feel I have to defend the amendment despite the confusion. We do know what this bill would do. It would do one of two things: on the one hand, without pronouncing—we have to assume the current state of the law as pronounced in *Buck v. Greyhound Lines*, is "joint and several." If we agree with that premise, this bill would say that you have to do more than simply plead as an affirmative defense comparative negligence. You have to prove it. Pre-trial you can file a motion or do whatever you need to do to prove that it is either a *bona fide* issue or otherwise. The Nevada Supreme Court, by the way, may or may not decide this issue because there are several issues in the Nevada Supreme Court case. They may not get to this issue, and if they do not it may be presumed joint and several. But, if they get to this issue and they determine several, we know that this bill has no utility. I still urge support.

Roll call on Assembly Bill No. 240:

YEAS—11.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hammond, Hardy, Hutchison, Kieckhefer, Roberson, Settelmeyer—10.

Assembly Bill No. 240 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 352.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 352 prohibits a person from knowingly advertising, making, possessing, purchasing, selling or transporting a hoax bomb with intent to: (1) make a reasonable person believe it is an explosive or incendiary device; (2) cause alarm or reaction by an employee, officer or volunteer of a fire or law enforcement agency; or (3) cause the evacuation of a building, whether or not a threat is conveyed. The bill provides that a violation of this prohibition is a gross misdemeanor or, if used to cause the evacuation of a building, a Category E felony or, if used in furtherance of a felony, a Category C felony. This measure is effective on October 1, 2013.

Roll call on Assembly Bill No. 352:

YEAS—21.

NAYS—None.

Assembly Bill No. 352 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 354.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 354 prohibits the manufacture, sale, or distribution of an empty bottle or cup containing intentionally added Bisphenol A, or BPA, if the bottle or cup is designed or intended to be filled with liquid, food, or beverage intended primarily for consumption by a child less than four years of age. The bill also prohibits the manufacture, sale or distribution of infant formula or baby food stored in a container that contains intentionally added Bisphenol A.

Roll call on Assembly Bill No. 354:

YEAS—21.

NAYS—None.

Assembly Bill No. 354 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 358.

Bill read third time.

Remarks by Senator Brower.

Thank you, Mr. President. Assembly Bill No. 358 enacts the Uniform Deployed Parents Custody and Visitation Act. It essentially prohibits a court from using a parent's past or possible future military deployment itself as a negative factor in determining the best interest of a child in a custody proceeding. The bill received unanimous support from the Senate Committee on Judiciary. I urge your support.

Roll call on Assembly Bill No. 358:

YEAS—21.

NAYS—None.

Assembly Bill No. 358 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 366.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 366 allows a nonprofit cooperative corporation to deal in products of nonmembers in an amount greater in value than products it handles for members, if allowed by its articles of incorporation or bylaws. It requires the name of the corporation to contain the word “Cooperative” or “Co-op,” or the abbreviation “N.C.C.” The bill also authorizes the adoption of initial bylaws by a majority vote of the directors, authorizes a majority of the members to delegate the power to amend the bylaws to the directors and makes other related changes.

Roll call on Assembly Bill No. 366:

YEAS—21.

NAYS—None.

Assembly Bill No. 366 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 379.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. To summarize, Assembly Bill No. 379 allows the owner or occupant of property, where an abandoned recreational vehicle is located, to apply to the Department of Motor Vehicles for a letter of abandonment. Once the Department of Motor Vehicles figures out they cannot get ahold of the prior owner of the abandoned vehicle, the vehicle can be removed to the solid waste landfill, eliminating the eye sore and potential dangers.

Roll call on Assembly Bill No. 379:

YEAS—21.

NAYS—None.

Assembly Bill No. 379 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 381.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Assembly Bill No. 381 sets forth a legislative finding that St. Thomas, Nevada, contains unique, culturally important resources. It also encourages the Office of Historic Preservation of the State Department of Conservation and Natural Resources to collaborate with Partners in Conservation to identify and develop programs for the preservation and protection of the historical culture of St. Thomas.

Roll call on Assembly Bill No. 381:

YEAS—21.

NAYS—None.

Assembly Bill No. 381 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 382.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 382 allows the governing body of a city, within a county whose population is 700,000 or more, currently Clark County, and which is home to an endangered or threatened species, to impose a fee, by ordinance, on the construction of a structure or the grading of land in the unincorporated areas of the county if the county has created an enterprise fund as specified. The enterprise fund must be established pursuant to current State law, and the money in the fund may be used only to pay the actual direct costs of the program or programs established to encourage the preservation of those species or subspecies in the county likely to have a significant impact upon the economy and lifestyles of the residents of the county if listed as endangered or threatened. The fee, collected at the same time and in the same manner as the fee for the issuance of a building permit, may be no more than \$550 per acre. This measure is effective upon passage and approval.

Roll call on Assembly Bill No. 382:

YEAS—21.

NAYS—None.

Assembly Bill No. 382 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 383.

Bill read third time.

Remarks by Senator Spearman, Settelmeyer, Kieckhefer and Goicoechea.

SENATOR SPEARMAN:

Thank you, Mr. President. Assembly Bill No. 383 requires the Audit Division of the Legislative Counsel Bureau to perform an audit of a board or a commission being reviewed by the Sunset Subcommittee of the Legislative Commission, if both the Sunset Subcommittee and the Legislative Commission recommend an audit. The Legislative Auditor shall not perform more than four such audits during a Legislative Interim. The measure specifies that the three members of the Sunset Subcommittee, who are appointed from the general public, are nonvoting members and the other six members are voting members. The number of boards or commissions that must be reviewed each Interim is reduced from not less than 20 to not less than 10.

The Sunset Subcommittee is a permanent Subcommittee of the Legislative Commission whose authorization and duties are set forth in Chapter 232B, “Legislative Review of Public Agencies” of *Nevada Revised Statutes*. Created in 2011 with the enactment of Senate Bill 251, the Subcommittee is responsible for conducting reviews of all boards and commissions in Nevada that are not provided for in the Nevada Constitution or established by an Executive Order of the Governor. This measure is effective upon passage and approval.

SENATOR SETTELMAYER:

Thank you, Mr. President. I have a question for the Senate Committee on Government Affairs. Are you lowering the number of bills that need to be reviewed? I have served on the

Sunset Subcommittee in the past. We did a lot of work in that respect. I am curious why the reduction in number. I think it is good to continue to review those and find any duplicative items that can be eliminated. Why are we lowering the number of committees to review?

SENATOR KIECKHEFER:

Thank you, Mr. President. The effort is to reduce the overall number of committees so those that are bigger in their scope and reach can be reviewed in a more in-depth fashion, in order to crack down on some of the potentially more wasteful areas. I believe that is the intent behind Assembly Bill No. 383.

SENATOR GOICOECHEA:

Thank you, Mr. President. I believe the testimony in Committee, both from the auditor, Paul Townsend, and the sponsor of the bill, they wanted to review fewer committees. The last Sunset Subcommittee reviewed many committees, and only three or so were eliminated. The focus was to do less in order to do more.

SENATOR SETTELMEYER:

Thank you, Mr. President. I am concerned that if the Committee looks at less, they will get rid of less. I think we should be looking at as many as possible in an effort to reduce the number.

Roll call on Assembly Bill No. 383:

YEAS—20.

NAYS—Settelmeyer.

Assembly Bill No. 383 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 386.

Bill read third time.

Remarks by Senators Woodhouse and Hardy.

SENATOR WOODHOUSE:

Thank you, Mr. President. Assembly Bill No. 386 establishes a pilot program in the Clark and Washoe County School Districts for the administration of mental health screenings to students enrolled in at least one secondary school in each school district. It also requires a parent to affirmatively give his or her written consent to the proposed screening, or the child will be exempt. This measure requires the school districts to report program outcomes to the Legislative Committee on Education and Nevada's Department of Education, and the Department must subsequently compile the results and submit them to the 78th Session of the Nevada Legislature.

Assembly Bill No. 386 also: (1) ensures engagement and coordination with community stakeholders throughout the process of implementing the pilot program; (2) specifies that a school district does not have financial or referral responsibilities related to follow-up treatment that might be needed by a student who is screened; and (3) provides for aggregated data collection to inform the possible development of future programs, resources or interventions. This bill is effective on July 1, 2013. I would appreciate your support.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 386. We have had recent debates on the Senate Floor and in Committees on mental health. One of the challenges we have is identifying those who have mental-health challenges. This is the kind of tool we can start with to see how it works, and if it works, what we can do to intervene. I think this is a small step that portends different directions depending on how things go.

Roll call on Assembly Bill No. 386:

YEAS—18.

NAYS—Cegavske, Gustavson, Settelmeyer—3.

Assembly Bill No. 386 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 389.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Assembly Bill No. 389 authorizes the court to make the child a party to an action to determine parentage, or to appoint a guardian *ad litem* for a minor child in such an action, if the court determines it is necessary. The bill also deletes existing provisions that require the district attorney or the Division of Welfare and Supportive Services, Department of Health and Human Services, to act as guardian *ad litem*.

Roll call on Assembly Bill No. 389:

YEAS—21.

NAYS—None.

Assembly Bill No. 389 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 391.

Bill read third time.

The following amendment was proposed by Senator Atkinson:

Amendment No. 816.

"SUMMARY—Revises provisions relating to energy. (BDR 58-1025)"

"AN ACT relating to energy; providing that the amount of certain incentives issued by a utility for the installation of certain renewable energy systems on property owned or occupied by a public body may not be used to reduce the cost of the project so as to exempt the project from provisions governing competitive bidding for public works projects; requiring contractors who enter into contracts pursuant to the Green Jobs Initiative to make certain certifications to the Labor Commissioner concerning wages paid to employees who work on such projects; providing that certain utilities which are generally subject only to limited jurisdiction, control and regulation of the Public Utilities Commission of Nevada become subject to the full jurisdiction, control and regulation of the Commission under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 9 and 10 of this bill revise provisions relating to the installation of certain renewable energy systems on property owned or occupied by a public body to provide that the amount of any incentive issued by a utility for the installation of the renewable energy system may not be used to reduce the cost of the project so as to exempt the project from provisions governing competitive bidding for public works projects.

Section 11 of this bill requires any contractor or subcontractor who enters into a contract pursuant to the Green Jobs Initiative to provide written certification to the Labor Commissioner that the employees of the contractor

or subcontractor who perform work under the contract are paid the prevailing wage required by the Initiative. (NRS 701B.900-701B.924)

Existing law provides that certain entities which are declared to be utilities but which provide services only to their members are subject only to limited jurisdiction, control and regulation of the Public Utilities Commission of Nevada. (NRS 704.675) Section 12 of this bill provides that such a utility is subject to the full jurisdiction, control and regulation of the Commission if the Commission determines that the utility or any entity that is owned or controlled by the utility: (1) is being operated without a certificate of public convenience and necessity issued to the utility by the Commission; (2) is supplying energy services to persons other than its own members; (3) is offering energy services outside the geographic area for which it holds a certificate of public convenience and necessity; (4) qualifies as a public utility or utility under applicable law outside the geographic area for which it holds a certificate of public convenience and necessity; or (5) has otherwise violated certain provisions of law relating to utilities.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 701B.265 is hereby amended to read as follows:

701B.265 1. The installation of a solar energy system on property owned or occupied by a public body pursuant to NRS 701B.010 to 701B.290, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a solar energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from ~~the~~ any requirements of chapter 338 of NRS. ~~[338.020 to 338.090, inclusive.]~~

3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 10. NRS 701B.625 is hereby amended to read as follows:

701B.625 1. The installation of a wind energy system on property owned or occupied by a public body pursuant to NRS 701B.400 to 701B.650, inclusive, shall be deemed to be a public work for the purposes of

chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a wind energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from ~~the~~ any requirements of chapter 338 of NRS. ~~{338.020 to 338.090, inclusive.}~~

3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 11. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.
- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.
- (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.
- (f) Whether the project has qualified for participation in one or more of the following programs:
 - (1) The Solar Energy Systems Incentive Program created by NRS 701B.240;
 - (2) The Renewable Energy School Pilot Program created by NRS 701B.350;
 - (3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;
 - (4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or
 - (5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.

- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.
- (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.
- (f) Whether the project has qualified for participation in one or more of the following programs:
 - (1) The Solar Energy Systems Incentive Program created by NRS 701B.240;
 - (2) The Renewable Energy School Pilot Program created by NRS 701B.350;
 - (3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;
 - (4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or
 - (5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.
- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.
- (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.
- (f) Whether the project has qualified for participation in one or more of the following programs:
 - (1) The Solar Energy Systems Incentive Program created by NRS 701B.240;
 - (2) The Renewable Energy School Pilot Program created by NRS 701B.350;
 - (3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;
 - (4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or
 - (5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS ~~and~~ *and requiring that each contractor and subcontractor certify to the Labor Commissioner in writing that all employees of the contractor or subcontractor who work on the project are paid prevailing wages as required by this paragraph;*

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 12. NRS 704.675 is hereby amended to read as follows:

704.675 ~~Every~~

1. *Except as otherwise provided in subsection 2, every* cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying those services for the use of its own members only is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation

of the Commission for the purposes of NRS 703.191, 704.330, 704.350 to 704.410, inclusive, but not to any other jurisdiction, control and regulation of the Commission or to the provisions of any section not specifically mentioned in this ~~section~~ subsection.

2. *The limitations set forth in subsection 1 governing the applicability of this chapter and the jurisdiction, control and regulation of the Commission do not apply to a cooperative association, nonprofit corporation or association or any other supplier of services described in this chapter that supplies energy services for the use of its own members if the Commission determines that the cooperative association, nonprofit corporation or association or other supplier of services described in this chapter, or any entity that is owned or controlled by the cooperative association, nonprofit corporation or association or other supplier of services:*

(a) *Is being operated without a certificate of public convenience and necessity as required by NRS 704.330;*

(b) *Is supplying energy services to persons other than its own members;*

(c) *Is offering energy services outside the geographic area for which it holds a certificate of public convenience and necessity issued by the Commission;*

(d) *Qualifies as a public utility or utility under NRS 704.020 outside the geographic area for which it holds a certificate of public convenience and necessity issued by the Commission; or*

(e) *Has otherwise violated any provision of NRS 704.330.*

3. *As used in this section, "energy services" ~~includes~~ :*

(a) *Includes, without limitation, assuming responsibility for furnishing or delivering energy to another person, the operation of a system for furnishing or delivering energy to another person and assuming responsibility for the maintenance of a system for furnishing or delivering energy to another person.*

(b) *Does not include the transmission of electricity which originates outside of the area for which a certificate of public convenience and necessity has been issued to a cooperative association, nonprofit corporation or association or other supplier of services described in this chapter, and which is delivered to an electric utility.*

Sec. 12.5. NRS 704.865 is hereby amended to read as follows:

704.865 1. A person, other than a local government, shall not commence to construct a utility facility in the State without first having obtained a permit therefor from the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, does not constitute construction of a utility facility. Any facility, with respect to which a permit is required, must thereafter be constructed, operated and maintained in conformity with the permit and any terms, conditions and modifications contained therein. A permit may only be issued pursuant to NRS 704.820 to 704.900, inclusive. Any authorization relating to a utility facility granted under other laws administered by the Commission constitutes

a permit under those sections if the requirements of those sections have been complied with in the proceedings leading to the granting of the authorization.

2. A permit may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

3. NRS 704.820 to 704.900, inclusive, do not apply to any utility facility:

(a) For which, before July 1, 1971, an application for the approval of the facility has been made to any federal, state, regional or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in NRS 704.890;

(b) For which, before July 1, 1971, a governmental agency has approved the construction of the facility and the person has incurred indebtedness to finance all or part of the cost of the construction;

(c) Over which an agency of the Federal Government has exclusive jurisdiction; or

(d) Owned by a supplier of services described in NRS 704.673 or *subsection 1 of NRS 704.675* that:

(1) Is not jointly owned by or with an entity that is not such a supplier of services; and

(2) Is subject to the provisions of the National Environmental Policy Act of 1969, 42 U.S.C §§ 4321 et seq.

4. Any person intending to construct a utility facility excluded from NRS 704.820 to 704.900, inclusive, pursuant to paragraph (a) or (b) of subsection 3 may elect to waive the exclusion by delivering notice of its waiver to the Commission. NRS 704.820 to 704.900, inclusive, thereafter apply to each utility facility identified in the notice from the date of its receipt by the Commission.

Sec. 13. 1. This act becomes effective on October 1, 2013.

2. Section 1 of this act expires by limitation on June 30, 2049.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 816 to Assembly Bill No. 391 clarifies the definition of energy services so that such services do not apply to standard wheeling of electricity.

Amendment adopted.

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

Assembly Bill No. 393.

Bill read third time.

Remarks by Senators Jones and Kieckhefer.

SENATOR JONES:

Thank you, Mr. President. Assembly Bill No. 393 provides that a child placed in foster care has the right to have contact with siblings unless it is contrary to the safety of that child, and to the extent practicable, have contact arranged on a regular basis, holidays, birthdays and other significant life events. The bill further prescribes that a child placed in foster care has the right not to have contact or visitation with a sibling withheld as a form of punishment and, consistent

with the age and developmental experience of the child, be notified of changes in the placement of a sibling. This bill is effective on October 1, 2013. I urge your support.

SENATOR KIECKHEFER:

Thank you, Mr. President. Assembly Bill No. 393 helps ensure that children who are placed in foster care continue to have access to their siblings. It is a good bill.

Roll call on Assembly Bill No. 393:

YEAS—21.

NAYS—None.

Assembly Bill No. 393 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 395.

Bill read third time.

Remarks by Senators Kihuen and Hardy.

SENATOR KIHUEN:

Thank you, Mr. President. Assembly Bill No. 395 prohibits persons associated with a common-interest community from willfully and without legal authority harassing, threatening or engaging in a course of conduct against other persons associated with the community. If that conduct causes harm or serious emotional distress, or the reasonable apprehension thereof, or creates a hostile environment for the other person. The prohibition applies to a community manager; an agent or employee of a community manager; a member of the executive board; an agent, employee or officer of a homeowners' association; a unit's owner; and a guest or tenant of a unit's owner. The bill provides that a person who violates this prohibition commits a public nuisance and is guilty of a misdemeanor.

SENATOR HARDY:

Thank you, Mr. President. Having heard the description of emotional stresses and harassment, I recall when my wife was accused of stealing a dime out of the dryer in college—to tell you how long ago that was. It caused her quite some emotional distress to be accused of stealing. I struggle with the homeowners' associations and the intimidation factors that may or may not be perceived differently by different people. I do not know if that was addressed in the bill, but I have some anxiety with the bill.

Roll call on Assembly Bill No. 395:

YEAS—19.

NAYS—Hardy, Settelmeyer—2.

Assembly Bill No. 395 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 415.

Bill read third time.

Remarks by Senators Segerblom.

Thank you, Mr. President. Senate Bill No. 415 provides that the crime of burglary does not include the act of entering a commercial establishment during business hours with intent to commit petit larceny unless the person who enters has two or more previous convictions for petit larceny within the last seven years or a felony conviction. This legislation is designed to deal with the situation where someone goes into a convenience store and takes a soda—we do not want that to be a felony to start out with. It also provides a special account for the Advisory

Commission on the Administration of Justice. It also authorizes each county to establish a community court pilot project within any of the counties' justice courts.

Senator Segerblom moved that Assembly Bill No. 415 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

Assembly Bill No. 417.

Bill read third time.

Remarks by Senators Parks and Hardy.

SENATOR PARKS:

Thank you, Mr. President. Assembly Bill No. 417 requires the legislative body of a community to create a revolving loan account administered by the redevelopment agency. Money in the revolving loan account may be used by the agency only to make loans at or below market rate to new or existing small businesses in the redevelopment area. A "small business" is defined as a business that employs not more than 25 persons. Loans may be made from the revolving loan account to small businesses located within the redevelopment area or persons wishing to locate or relocate a new small business in the redevelopment area per certain criteria, and the term of the loan must be five years or less. Each redevelopment agency must make certain annual reports to the Legislature concerning loans from the revolving loan account.

Prevailing wage requirements apply to certain projects when a redevelopment agency has provided: (1) property for development at less than the fair market value; (2) a loan to a small business from the revolving loan account at or below the market rate; or (3) financial incentives to a developer valued at more than a \$100,000. Each redevelopment agency must adopt regulations for the application process, terms and criteria for a loan from its revolving loan account. The measure authorizes a redevelopment agency in a city, located in a county whose population is 700,000 or more, currently Clark County, to adopt an ordinance providing for the recalculation of the total assessed value of property in a redevelopment area under certain circumstances. Finally, it provides for the set-aside and use of certain revenues from taxes imposed on property in such a redevelopment area. This measure is effective upon passage and approval. The requirement for reports to the Legislature expire by limitation on December 31, 2017.

SENATOR HARDY:

Thank you, Mr. President. To the Chair of the Senate Committee on Government Affairs: is the entity that has such a loan, on the hook in any way, if the loan is not paid? Does it affect their bond rating in any way?

SENATOR PARKS:

Thank you, Mr. President. To my colleague in Senate District No. 12, it is presumed that the small business would make good on its loan. Obviously, the possibility does exist that there might be an insolvency issue. In that case, the small business, to the extent possible, would be on the hook. However, there is nothing that says there may be an uncollected loan amount. These are relatively small amounts of money, and they are intended to be incentives to bring small businesses into a redevelopment district.

Roll call on Assembly Bill No. 417:

YEAS—21.

NAYS—None.

Assembly Bill No. 417 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 418.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 418 revises the formula for distributing, on or after July 1, 2013, the proceeds from a property tax that county commissioners, in a county with a population of 700,000 or more, currently Clark County, may levy at a rate not to exceed \$0.05 per \$100 of the assessed valuation of the county. The proceeds are distributed among the county and the cities and towns in the county. This measure is effective on July 1, 2013. The distribution has been out of balance for a number of years, and this simply puts the distribution of these proceeds—it is an existing \$0.05 tax rate—into a more equitable distribution.

Roll call on Assembly Bill No. 418:

YEAS—21.

NAYS—None.

Assembly Bill No. 418 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 421.

Bill read third time.

Remarks by Senator Kihuen.

Thank you, Mr. President. Assembly Bill No. 421 modernizes Nevada's laws on assisted reproduction. The bill provides definitions of appropriate terms; identifies the circumstances in which a parent-child relationship is established and in which a person is, and is not, the parent of a child; and addresses the effect of a divorce or termination of a domestic partnership. Assembly Bill No. 421 also provides that court hearings related to assisted reproduction are confidential; addresses the effect of noncompliance with a gestational agreement; provides that a gestational carrier or donor may receive reimbursement for expenses and economic losses; and requires consideration, if any, to be negotiated in good faith between the parties. The bill also repeals obsolete statutes.

Roll call on Assembly Bill No. 421:

YEAS—20.

NAYS—Gustavson.

Assembly Bill No. 421 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 432.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Assembly Bill No. 432 provides that a supplier's subsidiary or affiliate is included in the definition of "supplier" for purposes of the purchase of liquor by a wholesaler, who is not the importer designated by the supplier. The bill also prohibits an importer or wholesaler from operating or otherwise locating his or her business on the premises or on the property of any supplier. This bill is effective on October 1, 2013.

Roll call on Assembly Bill No. 432:

YEAS—21.

NAYS—None.

Assembly Bill No. 432 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 434.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Assembly Bill No. 434 allows certain educational requirements for registration as an interior designer to be satisfied by the receipt of a degree from an accredited architectural program. The bill also provides that an application for registration submitted to the State Board of Architecture, Interior Design and Residential Design may be denied for violations of existing law governing architects, registered interior designers and residential designers, including any violation that may reasonably call into question the qualifications or experience of the applicant. This bill is effective on October 1, 2013. I would appreciate your support.

Roll call on Assembly Bill No. 434:

YEAS—21.

NAYS—None.

Assembly Bill No. 434 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 437.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Assembly Bill No. 437 authorizes a title insurer to provide a closing protection letter to any party in a real estate transaction, not only the party purchasing title insurance. The bill restricts the acts or omissions that may affect the status of the title or the validity of the lien on the mortgage for the real estate subject to the transaction. A title insurer is restricted from providing indemnification of the type provided by the closing protection letter in any other manner. Additionally, the bill provides that a closing protection letter may indemnify the party to whom it is issued from acts or omissions by a person employed or approved by the title insurer to perform closing or settlement services.

Roll call on Assembly Bill No. 437:

YEAS—21.

NAYS—None.

Assembly Bill No. 437 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bills Nos. 176, 440, 441, 442, 445, 449, 455, 456, 459, 460, 471, 478, 483, 486, 494; Assembly Joint Resolutions Nos. 1, 3, be taken from the General File and placed on the top of the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 31.

The following Assembly amendment was read:

Amendment No. 659.

"SUMMARY—Revises provisions governing children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-385)"

"AN ACT relating to children; revising provisions concerning the release of certain information relating to a child subject to the jurisdiction of the juvenile court; revising provisions governing the release of certain information maintained by agencies which provide child welfare services; revising provisions concerning certain federal educational assistance for homeless children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.2 of this bill authorizes directors of juvenile services, chief juvenile probation officers and the Chief of the Youth Parole Bureau, or his or her designee, to release, upon written request and good cause shown, certain information concerning a child who is within the purview of the juvenile court to certain other persons involved in the juvenile justice system. Under section 1.2: (1) any information released must be kept confidential by the recipient of the information and be provided only to a person authorized by section 1.2 to receive the information; and (2) the information may not be used to deny a child access to any services for which the child would otherwise be eligible.

Section 1.2 also authorizes the release of certain information concerning a child who is within the purview of the juvenile court for the purposes of: (1) certain research concerning juvenile justice services if the information is provided in the aggregate and without the inclusion of personal identifying information; and (2) for the purposes of oversight of an agency, department or office providing services relating to juvenile justice. Section 1.4 of this bill authorizes the inspection of sealed juvenile justice records for research purposes.

Sections 2 and 4 of this bill enact provisions governing the application of the federal McKinney-Vento Homeless Assistance Act of 1987 to children in the protective custody of an agency which provides child welfare services.

Sections 4.4, 4.6 and 4.8 of this bill authorize an agency which provides child welfare services to release certain information concerning reports or investigations of the alleged abuse or neglect of a child to certain agencies, persons and entities and provide for the confidentiality of such information. Section 4.8 also authorizes an agency which provides child welfare services to charge a fee for processing costs reasonably necessary to prepare the information for release.

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

Section 1. (Deleted by amendment.)

Sec. 1.2. Chapter 62H of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Juvenile justice information must be maintained in accordance with federal law, and any provision of federal law authorizing the release of juvenile justice information must be construed as broadly as possible in favor of the release of juvenile justice information.*

2. *For the purpose of ensuring the safety, permanent placement, rehabilitation, educational success and well-being of a child, a director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may, upon written request and good cause shown, share appropriate juvenile justice information with:*

- ~~(a) A judge of the juvenile court or his or her designee;~~
- ~~(b) A master of the juvenile court or his or her designee;~~
- ~~(c) A director of juvenile services or his or her designee;~~
- ~~(d) (b) The Chief of the Youth Parole Bureau or his or her designee;~~
- ~~(e) (c) A district attorney or his or her designee;~~
- ~~(f) (d) An attorney representing the child;~~
- ~~(g) (e) The director of a state agency which administers juvenile justice or his or her designee;~~
- ~~(h) (f) A director of a state, regional or local facility for the detention of children or his or her designee;~~
- ~~(i) (g) The director of an agency which provides child welfare services or his or her designee;~~
- ~~(j) (h) A guardian ad litem or court appointed special advocate who represents the child;~~
- ~~(k) (i) A parent or guardian of the child if the release of the information to the parent or guardian is consistent with the purposes of this section; or~~
- ~~(l) (j) The child to whom the juvenile justice information pertains if the child has reached the age of majority.~~

3. *A written request for juvenile justice information pursuant to subsection 2 may be made only for the purpose of determining the appropriate placement of the child pursuant to the provisions of chapter 432B of NRS, the appropriate treatment or services to be provided to the child or the appropriate conditions of probation or parole to be imposed on the child. The written request must state the reason that the juvenile justice information is requested. A written request for juvenile justice information may be refused if:*

(a) *The request does not demonstrate good cause for the release of the information; or*

(b) *The release of the information would cause material harm to the child or would prejudice any court proceeding to which the child is subject.*

➔ *A refusal pursuant to this subsection must be made in writing to the person or entity requesting the information not later than 3 days after receipt of the request, excluding Saturdays, Sundays and holidays.*

4. Any juvenile justice information provided pursuant to this section is confidential, must be provided only to those persons listed in subsection 2 and must be maintained in accordance with any applicable laws and regulations.

5. Any juvenile justice information provided pursuant to this section may not be used to deny a child access to any service for which the child would otherwise be eligible, including, without limitation:

- (a) Educational services;
- (b) Social services;
- (c) Mental health services;
- (d) Medical services; or
- (e) Legal services.

6. A director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, may release juvenile justice information:

(a) In the aggregate and without personal identifying information included, to a person engaged in bona fide research that may be used to improve juvenile justice services or secure additional funding for juvenile justice services.

(b) As deemed necessary by a legislative body of this State or a local government in this State to conduct an audit or proper oversight of any department, agency or office providing services related to juvenile justice.

7. ~~7. A judge of the juvenile court or a master of the juvenile court shall not receive or release any juvenile justice information in a manner which violates any applicable rules adopted by the Supreme Court, the Nevada Code of Judicial Conduct or title 4 of NRS.~~

8. ~~8. "Juvenile"~~ As used in this section, "juvenile justice information" means any information maintained by a director of juvenile services or the Chief of the Youth Parole Bureau, or his or her designee, which is directly related to a child in need of supervision, a delinquent child or any other child who is otherwise subject to the jurisdiction of the juvenile court.

Sec. 1.4. NRS 62H.170 is hereby amended to read as follows:

62H.170 1. Except as otherwise provided in this section, if the records of a person are sealed:

(a) All proceedings recounted in the records are deemed never to have occurred; and

(b) The person may reply accordingly to any inquiry concerning the proceedings and the acts which brought about the proceedings.

2. The juvenile court may order the inspection of records that are sealed if:

(a) The person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the persons named in the petition;

(b) An agency charged with the medical or psychiatric care of the person who is the subject of the records petitions the juvenile court to permit the inspection of the records by the agency; ~~or~~

(c) A district attorney or an attorney representing a defendant in a criminal action petitions the juvenile court to permit the inspection of the records to obtain information relating to the persons who were involved in the acts detailed in the records ~~[-]~~; or

(d) *The juvenile court determines that the inspection of the records is necessary to:*

(1) *Perform bona fide outcome and recidivism studies;*

(2) *Further bona fide research to determine the effectiveness of juvenile justice services;*

(3) *Improve the delivery of juvenile justice services; or*

(4) *Obtain additional resources for the delivery of juvenile justice services.*

➡ *Personal identifying information contained in records inspected pursuant to this paragraph must remain confidential in a manner consistent with any applicable laws and regulations.*

3. Upon its own order, any court of this State may inspect records that are sealed if the records relate to a person who is less than 21 years of age and who is to be sentenced by the court in a criminal proceeding.

Sec. 1.6. NRS 218G.555 is hereby amended to read as follows:

218G.555 1. Except as otherwise provided in subsections 2 and 3, upon request, the Legislative Auditor or the Legislative Auditor's designee shall provide data and information obtained pursuant to NRS 218G.550 concerning a child who suffered a fatality or near fatality who had contact with or who was in the custody of an agency which provides child welfare services. The data or information which must be disclosed includes, without limitation:

(a) A summary of the report of the abuse or neglect of the child and a factual description of the contents of the report;

(b) The date of birth and gender of the child;

(c) The date that the child suffered the fatality or near fatality;

(d) The cause of the fatality or near fatality, if such information has been determined;

(e) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:

(1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality;

(2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;

(3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;

(4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and

(5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and

(f) Whether the agency which provides child welfare services, in response to the fatality or near fatality:

(1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household;

(2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and

(3) Has taken or intends to take any other action concerning the welfare and safety of the child or a member of the child's family or household.

2. The Legislative Auditor or his or her designee shall not disclose information pursuant to subsection 1 unless the person making the request has requested such information from the agency which provides child welfare services and has been denied access to such information or has not received the information in a timely manner.

3. The Legislative Auditor or his or her designee shall not disclose the following data or information pursuant to subsection 1:

(a) Except as otherwise provided in ~~subsection 3 of~~ NRS 432B.290, data or information concerning the identity of the person responsible for reporting the abuse or neglect of the child to a public agency;

(b) The name of the child who suffered a near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;

(c) A privileged communication between an attorney and client; or

(d) Information that may undermine a criminal investigation or pending criminal prosecution.

Sec. 1.8. NRS 392B.110 is hereby amended to read as follows:

392B.110 1. The legal guardian or custodian of a child may submit to the Department an application to participate in the Program if:

(a) The child has been placed in a foster home; and

(b) The child is enrolled in a public school or is not enrolled in a school because the child has not attained the age required for enrollment.

2. A legal guardian or custodian of a child, as applicable:

(a) Must include in the application the name of the public school in which the child is enrolled, if applicable, and the name of the school in which the legal guardian or custodian of the child wishes to enroll the child. The public school in which the child wishes to enroll does not have to be located in the school district in which the child resides.

(b) May include in the application a statement describing the reason for requesting that the child participate in the Program.

3. Upon receipt of an application pursuant to subsection 1, the Department shall notify the school district in which the child resides and the school district in which the child wishes to enroll, if applicable, that an application to participate in the Program has been submitted on behalf of the child.

4. The Department shall approve an application if the application satisfies the requirements of subsections 1 and 2.

5. Upon approval of an application, the Department shall provide a written statement of approval to the legal guardian or custodian of the child, as applicable, and the public school in which the child will be enrolled. Upon denial of an application, the Department shall provide a written statement of denial to the legal guardian or custodian of the child indicating the reason for the denial.

6. In determining whether to accept or deny an application submitted pursuant to subsection 1, the Department, in coordination with the board of trustees of the school district in which the child resides and the board of trustees of the school district in which the child wishes to attend school, if applicable, shall consider the best interests of the child in continuing the child's education in the public school in which the child was enrolled before the child was placed in a foster home or in transferring to another public school within this State. Every effort must be made to enroll the child in the public school requested by the legal guardian or custodian of the child pursuant to subsection 2.

7. Neither the board of trustees of the school district in which the child resides nor the board of trustees of the school district in which the child attends school, if applicable, is required to provide transportation for the child to attend a public school which the child is not zoned to attend.

8. *A child who is under the care, or in the legal or physical custody, of an agency which provides child welfare services, as defined in NRS 432B.030, is exempt from the provisions of this section and shall attend school in accordance with the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto.*

Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5, 3 and 4 of this act.

Sec. 2.5. *"Information maintained by an agency which provides child welfare services" means data or information concerning reports and investigations made pursuant to this chapter, including, without limitation, the name, address, date of birth, social security number and the image or likeness of any child, family member of any child and reporting party or source, whether primary or collateral.*

Sec. 3. (Deleted by amendment.)

Sec. 4. 1. *A child who is in the legal ~~land~~ or physical custody of an agency which provides child welfare services and is awaiting foster care placement shall be deemed to be homeless for the purposes*

of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto. If a child is legally adopted or ordered by a court of competent jurisdiction to a permanent placement, the child is no longer deemed homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. § 11301 et seq., and any regulations adopted pursuant thereto.

2. For the purpose of this section, "awaiting foster care placement" means the period during which a child is removed from his or her home until he or she is legally adopted or enters a permanent placement.

Sec. 4.2. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, *and section 2.5 of this act* have the meanings ascribed to them in those sections.

Sec. 4.4. NRS 432B.175 is hereby amended to read as follows:

432B.175 1. Data or information concerning reports and investigations thereof made pursuant to this chapter must be made available pursuant to this section to any member of the general public upon request if the child who is the subject of a report of abuse or neglect suffered a fatality or near fatality. Any such data and information which is known must be made available not later than 48 hours after a fatality and not later than 5 business days after a near fatality. Except as otherwise provided in subsection 2, the data or information which must be disclosed includes, without limitation:

(a) A summary of the report of abuse or neglect and a factual description of the contents of the report;

(b) The date of birth and gender of the child;

(c) The date that the child suffered the fatality or near fatality;

(d) The cause of the fatality or near fatality, if such information has been determined;

(e) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:

(1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality;

(2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;

(3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;

(4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and

(5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and

(f) Whether the agency which provides child welfare services, in response to the fatality or near fatality:

(1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household;

(2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and

(3) Has taken or intends to take any other action concerning the welfare and safety of the child or any member of the child's family or household.

2. An agency which provides child welfare services shall not disclose the following data or information pursuant to subsection 1:

(a) Except as otherwise provided in ~~subsection 3 of~~ NRS 432B.290, data or information concerning the identity of the person responsible for reporting the abuse or neglect of the child to a public agency;

(b) The name of the child who suffered a near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;

(c) A privileged communication between an attorney and client; and

(d) Information that may undermine a criminal investigation or pending criminal prosecution.

3. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

4. As used in this section, "near fatality" means an act that places a child in serious or critical condition as verified orally or in writing by a physician, a registered nurse or other licensed provider of health care. Such verification may be given in person or by telephone, mail, electronic mail or facsimile.

Sec. 4.6. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.538 and except as otherwise authorized or required pursuant to NRS 432B.290, *information maintained by an agency which provides child welfare services, including, without limitation, reports and investigations* made pursuant to this chapter, ~~as well as all records concerning these reports and investigations thereof, are~~ is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases ~~data~~ or ~~information concerning~~ disseminates such ~~reports and investigations,~~ information, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized pursuant to NRS 432B.165 and 432B.175;

(c) As otherwise authorized or required pursuant to NRS 432B.290;

(d) As otherwise authorized or required pursuant to NRS 439.538; or

(e) As otherwise required pursuant to NRS 432B.513,

↪ is guilty of a gross misdemeanor.

Sec. 4.8. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. *Information maintained by an agency which provides child welfare services must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.*

2. Except as otherwise provided in ~~subsections 2 and 3~~ *this section* and NRS 432B.165, 432B.175 and 432B.513, ~~[data or] information [concerning reports and investigations thereof made pursuant to this chapter]~~ *maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to:*

(a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;

(b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;

(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

(1) The child; or

(2) The person responsible for the welfare of the child;

(d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;

(e) Except as otherwise provided in paragraph (f), a court ~~[]~~ *other than a juvenile [dependency] court*, for in camera inspection only, unless the court determines ~~[in a written finding provided to the agency which provides child welfare services]~~ that public disclosure of the information is necessary for the determination of an issue before it;

(f) A court as defined in NRS 159.015 ~~[, for in camera inspection only,]~~ to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive;

(g) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

(h) The attorney and the guardian ad litem of the child ~~[]~~ *, if the information is reasonably necessary to promote the safety, permanency and well-being of the child;*

(i) A person who files or intends to file a petition for the appointment of a guardian or successor guardian of a child pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential [] and the information is reasonably necessary to promote the safety, permanency and well-being of the child;

(j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential ~~[-]~~ *and the information is reasonably necessary to promote the safety, permanency and well-being of the child;*

(k) A grand jury upon its determination that access to these records *and the information* is necessary in the conduct of its official business;

(l) A federal, state or local governmental entity, or an agency of such an entity, *or a juvenile* ~~[-]~~ *dependency* ~~[-]~~ *court*, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

(m) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;

(n) A team organized pursuant to NRS 432B.350 for the protection of a child;

(o) A team organized pursuant to NRS 432B.405 to review the death of a child;

(p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential ~~[-]~~ *and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;*

(q) The child over whom a guardianship is sought pursuant to chapter 159 of NRS or NRS 432B.466 to 432B.468, inclusive, if:

(1) The child is 14 years of age or older; and

(2) The identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential ~~[-]~~ *and the information is reasonably necessary to promote the safety, permanency and well-being of the child;*

(r) The persons *or agent of the persons* who are the subject of a report ~~[-]~~, *if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons;*

(s) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;

(t) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized ~~[-]~~ by the agency or department

having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if :

(1) The identity of the person making the report is kept confidential;
and

(2) The ~~the~~ officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;

(u) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;

(v) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;

(w) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

(x) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services;

(y) An employer in accordance with subsection 3 of NRS 432.100; or

(z) A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence.

~~{2-}~~ 3. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect ~~{-~~

~~3. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.} or any collateral sources and reporting parties.~~

4. *Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged abuse or neglect of a child or the life or safety of any person.*

5. *The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.*

6. *A person who is the subject of an unsubstantiated report of child abuse or neglect made pursuant to this chapter and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.*

7. *If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.*

8. *Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.*

9. *An agency which provides child welfare services may provide a summary of the outcome of an investigation of the alleged abuse or neglect of a child to the person who reported the suspected abuse or neglect.*

10. *Any person, except for:*

(a) ~~{The subject of a report;~~

~~(b)}~~ A district attorney or other law enforcement officer initiating legal proceedings; or

~~{(c)}~~ (b) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151,

→ who is ~~{given access, pursuant to subsection 1, to}~~ provided with information ~~{identifying the subjects of a report}~~ maintained by an agency which provides child welfare services and further disseminates this information, or who makes this information public, is guilty of a gross misdemeanor.

~~{5. The Division of Child and Family Services}~~

11. *An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.*

12. *An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.*

Sec. 5. This act becomes effective on July 1, 2013.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 659 to Senate Bill No. 31.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 106.

The following Assembly amendment was read:

Amendment No. 624.

"SUMMARY—Revises various provisions relating to judicial administration. (BDR 14-509)"

"AN ACT relating to judicial administration; revising provisions governing the collection of delinquent fines, administrative assessments, fees, restitution and other payments imposed in criminal and juvenile court proceedings; revising provisions governing the appointment of an attorney in juvenile court proceedings; authorizing a juvenile court to establish a restitution contribution fund; ~~{authorizing the waiver of all or part of any community service imposed by the juvenile court in exchange for a monetary contribution to a restitution contribution fund;}~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a court to impose a collection fee for certain delinquent fines, administrative assessments, fees and restitution and authorizes the court to take certain actions to collect such delinquent payments. (NRS 176.064) Section 1 of this bill authorizes the court to enter a civil judgment for the amount of any unpaid fines, administrative

assessments, fees and restitution imposed against a criminal defendant. Under section 1, the civil judgment may be enforced and renewed in the same manner as a judgment for money rendered in a civil action, and a person who is not indigent and who has not satisfied the civil judgment within a certain period may be punished for contempt. Section 1 also revises the purposes for which money collected from collection fees imposed by a court may be used. Section 4 of this bill authorizes a juvenile court to impose the same collection fees for delinquent fines, administrative assessments, fees, restitution and certain other payments as a court may impose against a criminal defendant pursuant to section 1. Section 4 authorizes a juvenile court to enter a civil judgment against a child or the parent or guardian of the child for any delinquent fines, administrative assessments, fees, restitution or other payments required in a juvenile court proceeding and authorizes the juvenile court to take certain actions if the juvenile court has entered such a civil judgment. Moreover, if the juvenile court has entered a civil judgment against a person who is not indigent and the juvenile court determines that the person has failed to make reasonable efforts to satisfy the civil judgment, section 4 authorizes the juvenile court to punish the person for contempt. Section 4 also provides that if a civil judgment entered by the juvenile court is unsatisfied and the person against whom the judgment is entered is convicted of a crime, the unsatisfied portion of the civil judgment must be included in the sentence for that crime.

Existing law requires a juvenile court to appoint an attorney to represent a child who is alleged to be delinquent or in need of supervision under certain circumstances. If the parent or guardian of a child for whom the juvenile court has appointed an attorney is not indigent, the parent or guardian is required to pay the reasonable fees and expenses of the attorney. If the parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with his or her ability to pay. (NRS 62D.030) Under section 7 of this bill, the juvenile court is required to find that the parent or guardian of a child is indigent if the parent or guardian: (1) receives public assistance, resides in public housing, has an income that is less than 200 percent of the federally designated poverty standard, is incarcerated or is housed in a public or private mental health facility; or (2) is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.

Section 9 of this bill authorizes a juvenile court to establish a restitution contribution fund. Under section 9, all expenditures from the restitution contribution fund: (1) must be authorized by the juvenile court; and (2) must provide restitution to victims of unlawful acts committed by children or, if the source of the money is a grant, gift, donation, bequest or devise, must be made in accordance with the terms of the grant, gift, donation, bequest or devise. ~~Section 10 of this bill authorizes the juvenile court to waive all or part of any community service imposed against a child by the juvenile court~~

~~upon good cause shown in exchange for a monetary contribution to the restitution contribution fund and requires the juvenile court to set forth in an administrative order that is available for public inspection a formula for determining the amount of a contribution to the fund and the manner in which the contribution must be made.~~ Section 6 of this bill authorizes an agreement for the informal supervision of a child to require the child to make a monetary contribution to a restitution contribution fund.

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

Section 1. NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than \$100, if the amount of the delinquency is less than \$2,000.

(b) Not more than \$500, if the amount of the delinquency is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is \$5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

(a) Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.

(b) Request that the court take appropriate action pursuant to subsection 3.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

(a) *Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil*

action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be dealt with as for contempt of court.

(b) Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount *of the civil judgment entered pursuant to paragraph (a)* and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.

~~[(b)]~~ (c) Order the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~[(e)]~~ (d) For a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution ~~[-]~~ *and to hire additional personnel necessary for the success of such a program.*

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to ~~[develop]~~ :

(1) *Develop* and implement a program for the collection of fines, administrative assessments, fees and restitution ~~[-]~~ *and to hire additional personnel necessary for the success of such a program; or*

(2) *Improve the operations of a court by providing funding for:*

(I) *A civil law self-help center; or*

(II) *Court security personnel and equipment for a regional justice center that includes the justice courts of that county.*

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State ~~[-]~~ *and to hire additional personnel necessary for the success of such a program.*

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

Sec. 2. NRS 176.065 is hereby amended to read as follows:

176.065 1. Except as otherwise provided in subsection 2, when a person is sentenced to both fine and imprisonment, or to pay a forfeiture in addition to imprisonment, the court may, pursuant to NRS 176.064, *or section 4 of this act*, order that the person be confined in the state prison, the city or county jail or a detention facility, whichever is designated in the person's sentence of imprisonment, for an additional period of 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied or the maximum term of imprisonment prescribed by law for the offense committed has elapsed, whichever is earlier, but the person's eligibility for parole is governed only by the person's sentence of imprisonment.

2. The provisions of this section do not apply to indigent persons.

Sec. 3. NRS 176.075 is hereby amended to read as follows:

176.075 1. Except as otherwise provided in subsection 2, when a person is sentenced to pay a fine or forfeiture without an accompanying sentence of imprisonment, the court may, pursuant to NRS 176.064, *or section 4 of this act*, order that the person be confined in the city or county jail or detention facility for a period of not more than 1 day for each \$75 of the amount until the administrative assessment and the fine or forfeiture are satisfied.

2. The provisions of this section do not apply to indigent persons.

Sec. 4. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile*

court to pay a fine, administrative assessment, fee or restitution or to make any other payment and the fine, administrative assessment, fee, restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to NRS 62B.330 or 62B.335 or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the termination of any period of supervision or probation ordered by the juvenile court, the juvenile court retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1. The juvenile court may supervise the civil judgment and take any of the actions authorized by the laws of this State.

3. A civil judgment entered pursuant to subsection 1 may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action.

4. If the juvenile court enters a civil judgment pursuant to subsection 1, the person or persons against whom the judgment is issued is liable for a collection fee, to be imposed by the juvenile court at the time the civil judgment is issued, of:

(a) Not more than \$100, if the amount of the judgment is less than \$2,000.

(b) Not more than \$500, if the amount of the judgment is \$2,000 or greater, but is less than \$5,000.

(c) Ten percent of the amount of the judgment, if the amount of the judgment is \$5,000 or greater.

5. In addition to attempting to collect the judgment through any other lawful means, a victim, a representative of the victim or a state or local entity that is responsible for collecting a civil judgment entered pursuant to subsection 1 may take any or all of the following actions:

(a) Except as otherwise provided in this paragraph, report the judgment to reporting agencies that assemble or evaluate information concerning credit. If the judgment was entered against a person who was less than 21 years of age at the time the judgment was entered, the judgment cannot be reported pursuant to this paragraph until the person reaches 21 years of age.

(b) Request that the juvenile court take appropriate action pursuant to subsection 6.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount

of the collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.

6. If the juvenile court determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may take any of the following actions:

(a) Order the suspension of the driver's license of a child for a period not to exceed 1 year. If the child is already the subject of a court order suspending the driver's license of the child, the juvenile court may order the additional suspension to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a child pursuant to this paragraph, the juvenile court shall require the child to surrender to the juvenile court all driver's licenses then held by the child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the driving record of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt in the manner provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

8. If the juvenile court enters a civil judgment pursuant to subsection 1 and the person against whom the judgment is entered is convicted of a crime before he or she satisfies the civil judgment, the court sentencing the person for that crime shall include in the sentence the civil judgment or such portion of the civil judgment that remains unpaid.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 62C.210 is hereby amended to read as follows:

62C.210 1. An agreement for informal supervision may require the child to:

(a) Perform community service , ~~for~~ provide restitution to any victim of the acts for which the child was referred to the probation officer ~~for~~ *or make a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act;*

(b) Participate in a program of restitution through work that is established pursuant to NRS 62E.580 if the child:

(1) Is 14 years of age or older;

(2) Has never been found to be within the purview of this title for an unlawful act that involved the use or threatened use of force or violence against a victim and has never been found to have committed such an unlawful act in any other jurisdiction, unless the probation officer determines that the child would benefit from the program;

(3) Is required to provide restitution to a victim; and

(4) Voluntarily agrees to participate in the program of restitution through work;

(c) Complete a program of cognitive training and human development pursuant to NRS 62E.220 if:

(1) The child has never been found to be within the purview of this title; and

(2) The unlawful act for which the child is found to be within the purview of this title did not involve the use or threatened use of force or violence against a victim; or

(d) Engage in any combination of the activities set forth in this subsection.

2. If the agreement for informal supervision requires the child to participate in a program of restitution through work or complete a program of cognitive training and human development, the agreement may also require any or all of the following, in the following order of priority if practicable:

(a) The child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay the costs associated with the participation of the child in the program, including, but not limited to:

(1) A reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program or performs work; and

(2) In the case of a program of restitution through work, for industrial insurance, unless the industrial insurance is provided by the employer for which the child performs the work; or

(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program.

Sec. 7. NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or

guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.

4. A child may waive the right to be represented by an attorney if:

(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or

(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.

5. Except as otherwise provided in *subsection 6 and* NRS 424.085, if the juvenile court appoints an attorney to represent a child and:

(a) The parent or guardian of the child is not indigent, the parent or guardian shall pay the reasonable fees and expenses of the attorney.

(b) The parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the ability of the parent or guardian to pay.

6. *For the purposes of paragraph (b) of subsection 5, the juvenile court shall find that the parent or guardian of the child is indigent if:*

(a) The parent or guardian:

(1) Receives public assistance, as that term is defined in NRS 422A.065;

(2) Resides in public housing, as that term is defined in NRS 315.021;

(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;

(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or

(5) Is housed in a public or private mental health facility; or

(b) After considering the particular circumstances of the parent or guardian, including, without limitation, the seriousness of the charges against the child, the monthly expenses of the parent or guardian and the rates for attorneys in the area in which the juvenile court is located, the juvenile court determines that the parent or guardian is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.

7. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

Sec. 8. Chapter 62E of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. 1. *The juvenile court may establish, with the county treasurer as custodian, a special fund to be known as the restitution contribution fund.*

2. *The juvenile court may apply for and accept grants, gifts, donations, bequests or devises which the director of juvenile services shall deposit with the county treasurer for credit to the fund.*

3. *The fund must be a separate and continuing fund, and no money in the fund reverts to the general fund of the county at any time. The interest earned on the money in the fund, after deducting any applicable charges, must be credited to the fund.*

4. *The juvenile court shall:*

(a) *Expend money from the fund only to provide restitution to a victim of an unlawful act committed by a child; and*

(b) *If the source of the money is a grant, gift, donation, bequest or devise, expend the money, to the extent permitted by law, in accordance with the terms of the grant, gift, donation, bequest or devise.*

5. *The juvenile court must authorize any expenditure from the fund before it is made.*

Sec. 10. ~~1. If a juvenile court has established a restitution contribution fund pursuant to section 9 of this act:~~

~~(a) In exchange for a monetary contribution to the restitution contribution fund, the juvenile court may, in its discretion and upon good cause shown, waive all or part of any community service which the juvenile court has ordered a child to perform.~~

~~(b) The juvenile court shall set forth in a written administrative order:~~

~~(1) A formula for determining the amount of the contribution to the restitution contribution fund pursuant to this section; and~~

~~(2) The manner in which the contribution must be made.~~

~~The juvenile court shall make available for public inspection the written administrative order described in this paragraph.~~

~~2. The provisions of this section do not:~~

~~(a) Create a right on behalf of a child to the waiver of all or part of any community service to be performed by the child in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act; or~~

~~(b) Establish a basis for any cause of action against the State of Nevada or its officers or employees for denial of a waiver of all or part of any community service to be performed by a child in exchange for a monetary contribution to a restitution contribution fund established pursuant to section 9 of this act.~~ (Deleted by amendment.)

Sec. 11. NRS 62E.100 is hereby amended to read as follows:

62E.100 Except as otherwise provided in NRS 62E.100 to 62E.300, inclusive ~~[-]~~, and ~~sections 9 and 10~~ of this act:

1. The provisions of NRS 62E.100 to 62E.300, inclusive, and ~~sections~~ *section 9 and 10* of this act apply to the disposition of a case involving any child who is found to be within the purview of this title.

2. In addition to any other orders or actions authorized or required by the provisions of this title, if a child is found to be within the purview of this title:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.100 to 62E.300, inclusive, and ~~sections~~ *section 9 and 10* of this act that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

Sec. 12. NRS 483.443 is hereby amended to read as follows:

483.443 1. The Department shall, upon receiving notification from a district attorney or other public agency collecting support for children pursuant to NRS 425.510 that a court has determined that a person:

(a) Has failed to comply with a subpoena or warrant relating to a proceeding to establish paternity or to establish or enforce an obligation for the support of a child; or

(b) Is in arrears in the payment for the support of one or more children,
➡ send a written notice to that person that his or her driver's license is subject to suspension.

2. The notice must include:

(a) The reason for the suspension of the license;

(b) The information set forth in subsections 3, 5 and 6; and

(c) Any other information the Department deems necessary.

3. If a person who receives a notice pursuant to subsection 1 does not, within 30 days after receiving the notice, comply with the subpoena or warrant or satisfy the arrearage as required in NRS 425.510, the Department shall suspend the license without providing the person with an opportunity for a hearing.

4. The Department shall suspend immediately the license of a defendant if so ordered pursuant to NRS 176.064 ~~[-]~~ or *section 4 of this act*.

5. The Department shall reinstate the driver's license of a person whose license was suspended pursuant to this section if it receives:

(a) A notice from the district attorney or other public agency pursuant to NRS 425.510 that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to that section, ~~[-]~~ from a district judge that a delinquency for which the suspension was ordered pursuant to NRS 176.064 has been discharged ~~[-]~~ or *from a judge of the juvenile court that an unsatisfied civil judgment for which the suspension was ordered pursuant to section 4 of this act has been satisfied*; and

(b) Payment of the fee for reinstatement of a suspended license prescribed in NRS 483.410.

6. The Department shall not require a person whose driver's license was suspended pursuant to this section to submit to the tests and other

requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of the reinstatement of the license.

Sec. 13. This act becomes effective upon passage and approval.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 624 to Senate Bill No. 106.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 243.

The following Assembly amendment was read:

Amendment No. 661.

"SUMMARY—Revises provisions relating to genetic marker analysis. (BDR 14-137)"

"AN ACT relating to genetic marker analysis; defining certain terms relating to genetic marker analysis; establishing the State DNA Database; imposing an administrative assessment upon a defendant convicted of any crime; requiring that a biological specimen be obtained from a person arrested for a felony; establishing the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of county commissioners of each county to designate a forensic laboratory to conduct and oversee any genetic marker analysis that is required by law. (NRS 176.0917) Section 11 of this bill establishes the State DNA Database, which is to be overseen, managed and administered by the Forensic Science Division of the Washoe County Sheriff's Office. Section 12 of this bill specifies the duties and responsibilities of forensic laboratories with respect to DNA records.

Under existing law, if a defendant is convicted of a felony or certain other specified offenses, the court, as part of the defendant's sentence, must order that a biological specimen be obtained from the defendant and that the specimen be used for analysis to determine the genetic markers of the specimen. (NRS 176.0911-176.0917) Section 13 of this bill requires that a biological specimen be obtained if a person is arrested for a felony. Section 13 provides that if the person is convicted of the felony, the biological specimen must be kept, but if the person is not convicted, the biological specimen must be destroyed and all records relating thereto must be purged from all databases.

Existing law prohibits a person from sharing or disclosing certain information relating to another person's biological specimen or genetic marker analysis and makes such conduct punishable as a misdemeanor. (NRS 176.0913, 176.0916) Sections 13, 21 and 23 of this bill increase the penalty for such conduct from a misdemeanor to a category C felony.

Section 15 of this bill imposes an additional administrative assessment of \$3 on a person convicted of a misdemeanor, gross misdemeanor or felony.

Section 15 also provides that the money collected from the assessments must be used to defray the costs associated with obtaining biological specimens and conducting genetic marker analysis.

Existing law: (1) establishes the Advisory Commission on the Administration of Justice and the Subcommittees on Juvenile Justice and Victims of Crime; and (2) directs the Commission and Subcommittees, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123-176.0125) Section 16.3 of this bill establishes the Subcommittee to Review Arrestee DNA of the Commission. Section 16.3 also: (1) requires the Chair of the Commission to appoint the members of the Subcommittee, including certain specified representatives; and (2) requires the Subcommittee to study issues related to arrestee DNA and report to the Commission with recommendations to address such issues.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16.3, inclusive, of this act.

Sec. 2. *"Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.*

Sec. 3. *"Biological specimen" means a biological sample, tissue, fluid or other bodily sample suitable for genetic marker analysis, obtained from a person or from physical evidence.*

Sec. 4. *"CODIS" means the Federal Bureau of Investigation's Combined DNA Index System that allows for the storage and exchange of DNA records submitted by federal, state and local forensic DNA laboratories. The term includes the National DNA Index System administered and operated by the Federal Bureau of Investigation.*

Sec. 5. *"DNA" means deoxyribonucleic acid which is located in the cells of a person and which provides the genetic blueprint of a person.*

Sec. 6. *"DNA profile" means the genetic constitution of a person at defined locations in the DNA of the person.*

Sec. 7. *"DNA record" means a database record, stored in the State DNA Database or CODIS, that includes the DNA profile of a person and data required to manage the record, including, without limitation, the identity of the agency submitting the database record, the identification number of the biological specimen and the names of personnel who conducted the genetic marker analysis.*

Sec. 8. *"Forensic laboratory" means any laboratory designated pursuant to NRS 176.0917.*

Sec. 9. *"Genetic marker analysis" means the analytical testing process of a biological specimen that results in a DNA profile.*

Sec. 10. *"State DNA Database" means the database established pursuant to section 11 of this act.*

Sec. 11. 1. *The State DNA Database is hereby established to serve as this State's repository for DNA records and to provide DNA records to the Federal Bureau of Investigation.*

2. *The Forensic Science Division of the Washoe County Sheriff's Office shall oversee, manage and administer the State DNA Database and shall:*

(a) *Implement policies for the management and administration of the State DNA Database, including, without limitation, any system for the identification of DNA profiles and DNA records that is necessary to support agencies of criminal justice.*

(b) *Adopt policies and protocols and enter into any necessary agreements to implement the provisions of NRS 176.0911 to 176.0917, inclusive, and sections 2 to 16, inclusive, of this act.*

(c) *Ensure that all searches of the State DNA Database are performed in accordance with state and federal law.*

(d) *Act as a liaison between the Federal Bureau of Investigation and other state agencies of criminal justice relating to this State's participation in CODIS.*

Sec. 12. 1. *A forensic laboratory shall:*

(a) *Prescribe protocols and procedures for the collection, submission, identification, genetic marker analysis, storage, maintenance, uploading and disposition of biological specimens, DNA profiles and DNA records.*

(b) *Securely upload DNA records to the State DNA Database.*

(c) *Acquire and maintain computer hardware and software necessary to store, maintain and upload DNA profiles and DNA records relating to:*

(1) *Crime scene evidence and forensic casework;*

(2) *Persons arrested for a felony and persons convicted of an offense listed in subsection 4 of NRS 176.0913 who are required to provide a biological specimen;*

(3) *Persons required to register as sex offenders pursuant to NRS 179D.445, 179D.460 or 179D.480;*

(4) *Unidentified persons or body parts;*

(5) *Missing persons;*

(6) *Relatives of missing persons;*

(7) *Anonymous DNA profiles used for forensic validation, forensic protocol development, quality control purposes or establishment of a population statistics database for use by criminal justice agencies; and*

(8) *Voluntarily submitted DNA profiles.*

2. *A forensic laboratory may:*

(a) *Use all or part of the remainder of any biological specimen stored in the forensic laboratory for:*

(1) *Retesting to confirm or update the original genetic marker analysis;*

or

(2) *Quality control testing of new forensic methods for genetic marker analysis, provided that no personal identifying information is included.*

(b) Contract with providers of services to perform a genetic marker analysis or to carry out functions on behalf of the forensic laboratory. Any provider of services who contracts with a forensic laboratory to perform a genetic marker analysis or to carry out functions on behalf of the forensic laboratory is subject to the same restrictions and requirements as the forensic laboratory.

3. A forensic laboratory shall not use any biological specimen, DNA profile or DNA record for the purpose of identification of any medical or genetic disorder.

Sec. 13. 1. If a person is arrested for a felony pursuant to a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, date of birth, fingerprints and any other information identifying the person to the Central Repository for Nevada Records of Criminal History;

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person, through a cheek swab, pursuant to the provisions of this section; and

(c) Submit the biological specimen to the appropriate forensic laboratory for genetic marker analysis in accordance with the provisions of this section.

2. If a person is arrested for a felony without a warrant, the law enforcement agency making the arrest shall:

(a) Submit the name, date of birth, fingerprints and any other information identifying the person to the Central Repository for Nevada Records of Criminal History;

(b) Upon booking the person into a city or county jail or detention facility, and before the person is released from custody, obtain a biological specimen from the person, through a cheek swab, pursuant to the provisions of this section;

(c) Submit the biological specimen to the appropriate forensic laboratory for genetic marker analysis in accordance with the provisions of this section after receiving notice that a court or magistrate has determined that probable cause existed for the person's arrest; and

(d) If a court or magistrate determines that probable cause did not exist for the person's arrest, destroy the biological specimen within 5 business days after receiving notice of the determination by the court or magistrate.

3. A law enforcement agency shall not knowingly obtain a biological specimen from a person who has previously submitted such a specimen for an arrest or conviction of a prior offense unless the law enforcement agency or a court or magistrate determines that an additional specimen is necessary.

4. If a law enforcement agency has not already obtained a biological specimen from a person arrested for an offense for which a biological specimen must be obtained pursuant to this section at the time a court or magistrate sets bail or considers releasing a person on his or her own recognizance, the court or magistrate shall:

(a) Require the person to provide a biological specimen as a condition of being admitted to bail or released on his or her own recognizance; and

(b) Require the biological specimen to be provided to the appropriate forensic laboratory.

5. The Attorney General or a district attorney may petition a district court for an order requiring a person arrested for an offense for which a biological specimen must be obtained pursuant to this section to provide a biological specimen:

(a) Through a cheek swab; or

(b) By alternative means, if the person will not cooperate.

➡ Nothing in this subsection shall be construed to prevent the collection of a biological specimen by order of a court of competent jurisdiction or the collection of a biological specimen from a person who is required to provide such a specimen pursuant to this section.

6. Upon receipt of a biological specimen, the forensic laboratory shall proceed with a genetic marker analysis. If the forensic laboratory determines that the biological specimen is inadequate or otherwise unusable, the law enforcement agency may obtain an additional biological specimen from the person arrested unless the person arrested is eligible to request destruction of the biological specimen and purging of his or her DNA profile or DNA record pursuant to this section.

7. Upon completion of a genetic marker analysis of a person pursuant to this section, the forensic laboratory shall inform the Central Repository for Nevada Records of Criminal History that the forensic laboratory has created a DNA profile of the person and will be submitting the DNA profile of the person for inclusion in the State DNA Database and CODIS. The Central Repository for Nevada Records of Criminal History shall include an indication on the criminal history record of the person regarding the collection of a biological specimen and the creation of a DNA profile, but may not include, in its records, any other information relating to the biological specimen, DNA profile or DNA record of the person.

8. A person whose record of criminal history indicates the collection of a biological specimen and whose DNA profile and DNA record have been included in the State DNA Database and CODIS pursuant to this section may make a written request to the Central Repository for Nevada Records of Criminal History, using the form created pursuant to section 14 of this act, that the biological specimen be destroyed and the DNA profile and DNA record be purged from the forensic laboratory, the State DNA Database and CODIS on the grounds that:

(a) The conviction on which the authority for keeping the biological specimen or the DNA profile or DNA record has been reversed and the case dismissed; or

(b) The arrest which led to the inclusion of the biological specimen or the DNA profile or DNA record:

(1) *Has resulted in a felony charge that has been resolved by a dismissal, the successful completion of a preprosecution diversion program, a conditional discharge, ~~for~~ an acquittal~~++~~ or an agreement entered into by a prosecuting attorney and a defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, receives a charge other than a felony; or*

(2) *Has not resulted in any additional criminal charge for a felony within ~~5~~ 3 years after the date of the arrest.*

9. *Within 6 weeks after receiving a written request pursuant to subsection 8, the Central Repository for Nevada Records of Criminal History shall forward the request and all supporting documentation to the forensic laboratory holding the biological specimen. Except as otherwise provided in subsection 10, upon receipt of the written request, the forensic laboratory shall destroy any biological specimen from the person and purge the DNA profile of the person if the written request is accompanied by:*

(a) *A certified copy of the court order reversing and dismissing the conviction; or*

(b) *For any biological specimen obtained pursuant to an arrest for which a biological specimen must be provided pursuant to this section:*

(1) *A certified copy of the dismissal, the successful completion of a preprosecution diversion program, a conditional discharge, ~~for~~ an acquittal~~++~~ or the agreement entered into by the prosecuting attorney and the defendant in which the defendant, in exchange for a plea of guilty, guilty but mentally ill or nolo contendere, received a charge other than a felony; or*

(2) *A sworn affidavit from the law enforcement agency which submitted the biological specimen that no felony charges arising from the arrest have been filed within 5 years after the date of the arrest.*

10. *The forensic laboratory shall not destroy a biological specimen or purge the DNA profile of a person if the forensic laboratory is notified by a law enforcement agency that the person has a prior felony, a new felony arrest or a pending felony charge for which collection of a biological specimen is authorized pursuant to this section.*

11. *If a forensic laboratory:*

(a) *Determines that the requirements to destroy a biological specimen or purge a DNA profile or DNA record of a person have not been met, the forensic laboratory shall notify the Central Repository of Nevada Records of Criminal History of that fact. The Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been denied.*

(b) *Destroys a biological specimen and purges a DNA profile pursuant to this section, the forensic laboratory shall take the following actions:*

(1) *Notify the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and from CODIS. Upon receipt of such notification, the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS.*

(2) *Notify the Central Repository for Nevada Records of Criminal History that the forensic laboratory has destroyed the biological specimen and purged the DNA profile of the person and has notified the State DNA Database that the DNA profile and DNA record of the person must be purged from the State DNA Database and CODIS. Upon receipt of such notification, the Central Repository shall, as soon as reasonably practicable, notify the person that his or her request has been granted, his or her biological specimen has been destroyed by the forensic laboratory and his or her DNA profile and DNA record have been purged from the forensic laboratory, the State DNA Database and CODIS.*

12. *Any cost that is incurred to obtain a biological specimen from a person, to destroy a biological specimen or to purge a DNA profile or DNA record from a forensic laboratory, the State DNA Database or CODIS pursuant to this section:*

- (a) *Is a charge against the county in which the person was arrested; and*
- (b) *Must be paid as provided in NRS 176.0915.*

13. *The biological specimen, DNA profile, DNA record and any other information identifying or matching a biological specimen with a person must, at all times, be stored and maintained in the forensic laboratory, State DNA Database or CODIS, as applicable, and may only be made available in accordance with the provisions of this section. The biological specimen, DNA profile, DNA record, other information identifying or matching a biological specimen with a person and all computer software used by the forensic laboratory and the State DNA Database for the State DNA Database and for CODIS are confidential and are not public books or records within the meaning of NRS 239.010.*

14. *If any information related to a biological specimen, DNA profile or DNA record contained in CODIS is requested, the forensic laboratory shall comply with all applicable provisions of federal law and all applicable statutes and regulations governing the release of such information. All requests for any such information must be directed through the casework CODIS administrator of the forensic laboratory. To minimize duplication in the collection of a biological specimen and the conducting of a genetic marker analysis, a forensic laboratory may make information available to any agency of criminal justice to verify whether a biological specimen has been collected from a person and a genetic marker analysis has been conducted.*

15. *Except as otherwise authorized by this section, by federal law or by another specific statute, a biological specimen obtained pursuant to this section, a DNA profile, a DNA record and any other information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, DNA profile, DNA record or other information identifying or matching a biological specimen with a person, except pursuant to:*

(a) *A court order; or*

(b) *A request from a law enforcement agency during the course of an investigation.*

↪ *A person who violates any provision of this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

Sec. 14. 1. *The Department of Public Safety shall establish a standard form for use by every law enforcement agency in this State that:*

(a) *Sets forth the authorized use of a biological specimen pursuant to NRS 176.0911 to 176.0917, inclusive, and sections 2 to 16, inclusive, of this act.*

(b) *Identifies the circumstances and process under which a person may have his or her biological specimen destroyed and his or her DNA profile or DNA record purged from the forensic laboratory, the State DNA Database and CODIS.*

(c) *May be completed and submitted to the Central Repository for Nevada Records of Criminal History by a person to request that his or her biological specimen be destroyed and his or her DNA profile or DNA record be purged from the forensic laboratory, the State DNA Database and CODIS.*

2. *A law enforcement agency shall provide the form to a person:*

(a) *Before obtaining a biological specimen;*

(b) *Upon release from custody if the person has submitted a biological specimen; or*

(c) *At the request of the person, if the person believes that he or she is eligible to have his or her biological specimen destroyed and his or her DNA profile or DNA record purged from the forensic laboratory, the State DNA Database and CODIS.*

Sec. 15. 1. *In addition to any other administrative assessment imposed, when a defendant pleads guilty, is found guilty or enters a plea of nolo contendere to a misdemeanor, gross misdemeanor or felony, including the violation of any municipal ordinance, on or after July 1, 2013, the justice or judge of the justice, municipal or district court, as applicable, shall include in the sentence the sum of \$3 as an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis and shall render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.*

2. *The money collected for an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 3. If the defendant is found not*

guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible, and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he or she has paid, and the justice or judge shall not recalculate the administrative assessment.

3. If the justice or judge permits the fine and administrative assessment for the provision of genetic marker analysis to be paid in installments, the payments must be applied in the following order:

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

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

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

(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to this section; and

(e) To pay the fine.

4. The money collected for an administrative assessment for the provision of genetic marker analysis must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month for credit to the fund for genetic marker analysis pursuant to NRS 176.0915.

Sec. 16. Any person authorized to collect a biological specimen pursuant to NRS 176.0911 to 176.0917, and sections 2 to 16, inclusive, of this act, may not be held civilly or criminally liable for any act relating to the collection of a biological specimen if the person performed that act in good faith and in a reasonable manner.

Sec. 16.3. 1. There is hereby created the Subcommittee to Review Arrestee DNA of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:

(a) A member experienced in defending criminal actions.

(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.

3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee. ~~[The Chair of the Subcommittee must be a member of the Commission.]~~

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. *The Subcommittee shall consider issues relating to DNA of arrested persons and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues. The issues considered by the Subcommittee and the report submitted by the Subcommittee must include, without limitation:*

(a) The costs and procedures relating to the methods, implementation and utilization of the provisions for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons; and

(b) The collection and review of information concerning the number of requests for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons and the number and percentage of such requests that are denied.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.

8. *As used in this section:*

(a) "Biological specimen" has the meaning ascribed to it in section 3 of this act.

(b) "DNA" has the meaning ascribed to it in section 5 of this act.

(c) "DNA profile" has the meaning ascribed to it in section 6 of this act.

(d) "DNA record" has the meaning ascribed to it in section 7 of this act.

Sec. 16.7. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, *and section 16.3 of this act*, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 17. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, *and section 15 of this act*, an administrative assessment for the provision of court facilities.

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

community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

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

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

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

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

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

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

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

(d) *To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to section 15 of this act; and*

(e) To pay the fine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 18. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, *and section 15 of this act*, an administrative assessment for the provision of specialty court programs.

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

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

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

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

fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

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

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

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

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

(d) *To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to section 15 of this act; and*

(e) To pay the fine.

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

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

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

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

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

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

(1) Acquiring necessary capital goods;

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

(3) Providing training and education to personnel;

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

(5) Conducting audits of the program;

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

(7) Acquiring or using appropriate technology.

10. As used in this section:

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

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.

Sec. 19. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, *and sections 2 to 16, inclusive, of this act*, unless the context otherwise requires, ~~["CODIS" means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.]~~ *the words and terms defined in sections 2 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 20. NRS 176.0912 is hereby amended to read as follows:

176.0912 1. Except as otherwise provided in this section, upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.

2. Biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section ~~[-~~

~~(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.~~

~~(b) "Biological"~~, "biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

~~[(c) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.]~~

Sec. 21. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4:

(a) The name, social security number, date of birth, *fingerprints* and any other information identifying the defendant must be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) ~~[A]~~ *Unless a biological specimen was previously obtained upon arrest pursuant to section 13 of this act, a biological specimen must be obtained from the defendant pursuant to the provisions of this section and the specimen must be used for [an analysis to determine the] a genetic [markers of the specimen.] marker analysis. If a biological specimen was previously obtained upon arrest pursuant to section 13 of this act, the court shall notify the Central Repository for Nevada Records of Criminal History, who in turn shall notify the appropriate forensic laboratory.*

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker ~~[testing]~~ *analysis* for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker ~~[testing]~~ *analysis* for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

- (a) A felony;
- (b) A crime against a child as defined in NRS 179D.0357;
- (c) A sexual offense as defined in NRS 179D.097;
- (d) Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;
- (e) A second or subsequent offense for stalking pursuant to NRS 200.575;
- (f) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (e), inclusive;
- (g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:

(1) Convicted in this State of committing an offense listed in paragraph (a), (d), (e) or (f); or

(2) Convicted in another jurisdiction of committing an offense that

would constitute an offense listed in paragraph (a), (d), (e) or (f) if committed in this State;

(h) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.450; or

(i) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. If it is determined that a defendant's biological specimen has previously been submitted for conviction of a prior offense, an additional sample is not required.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the ~~results of a genetic marker analysis~~ *DNA profile, the DNA record* and any other information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, ~~results of a genetic marker analysis~~ *the DNA profile, the DNA record* or other information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a ~~misdemeanor~~ *category C felony* and shall be punished as provided in NRS 193.130.

Sec. 22. NRS 176.0915 is hereby amended to read as follows:

176.0915 1. If a biological specimen is obtained from a ~~defendant~~ *person* pursuant to NRS 176.0913, *or section 13 of this act, and the person is convicted of the offense for which the biological specimen was obtained*, the court, in addition to any other penalty, shall order the ~~defendant~~ *person*, to the extent of the ~~defendant's~~ *person's* financial ability, to pay the sum of \$150 as a fee for obtaining the specimen and for conducting the ~~analysis to determine the~~ *genetic markers of the specimen* ~~marker analysis~~. The fee:

(a) Must be stated separately in the judgment of the court or on the docket of the court;

(b) Must be collected from the ~~defendant~~ *person* before or at the same time that any fine imposed by the court is collected from the ~~defendant~~ *person*; and

(c) Must not be deducted from any fine imposed by the court.

2. All money that is collected pursuant to subsection 1 must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

3. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for genetic marker ~~testing~~ *analysis*. The county treasurer shall deposit money that is

collected pursuant to subsection 2 in the fund for genetic marker ~~[testing]~~ *analysis*. The money must be accounted for separately within the fund.

4. Each month, the county treasurer shall use the money deposited in the fund for genetic marker ~~[testing]~~ *analysis* to pay for the actual amount charged to the county for obtaining a biological specimen from a ~~[defendant]~~ *person* pursuant to NRS 176.0913 ~~[]~~ *or section 13 of this act*.

5. The board of county commissioners of each county may apply for and accept grants, gifts, donations, bequests or devises which the board of county commissioners shall deposit with the county treasurer for credit to the fund for genetic marker ~~[testing]~~ *analysis*.

6. If money remains in the fund after the county treasurer makes the payments required by subsection 4, the county treasurer shall pay the remaining money each month to the forensic laboratory that is designated by the county pursuant to NRS 176.0917 to conduct or oversee genetic marker ~~[testing]~~ *analysis* for the county. A forensic laboratory that receives money pursuant to this subsection shall use the money to cover any expense related to genetic marker ~~[testing]~~ *analysis*.

Sec. 23. NRS 176.0916 is hereby amended to read as follows:

176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, *unless a biological specimen was previously obtained upon arrest pursuant to section 13 of this act*, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.

2. After a biological specimen is obtained from a probationer or parolee pursuant to this section, the Division shall:

(a) Provide the biological specimen to the forensic laboratory that has been designated by the county in which the probationer or parolee is residing to conduct or oversee genetic marker ~~[testing]~~ *analysis* for the county pursuant to NRS 176.0917; and

(b) Submit the name, social security number, date of birth, *fingerprints* and any other information identifying the probationer or parolee to the Central Repository.

3. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the ~~[results of a genetic marker analysis]~~ *DNA profile, the DNA record* and any other information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, ~~[results of a genetic marker analysis]~~ *the DNA profile, the DNA record* or other information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

4. A person who violates any provision of subsection 3 is guilty of a ~~[misdemeanor]~~ category C felony and shall be punished as provided in NRS 193.130.

5. A probationer or parolee, to the extent of his or her financial ability, shall pay the sum of \$150 to the Division as a fee for obtaining the biological specimen and for conducting the *genetic marker* analysis. ~~[to determine the genetic markers of the biological specimen.]~~ Except as otherwise provided in subsection 6, the fee required pursuant to this subsection must be collected from a probationer or parolee at the time the biological specimen is obtained from the probationer or parolee.

6. A probationer or parolee may arrange to make monthly payments of the fee required pursuant to subsection 5. If such arrangements are made, the Division shall provide a probationer or parolee with a monthly statement that specifies the date on which the next payment is due.

7. Any unpaid balance for a fee required pursuant to subsection 5 is a charge against the Division.

8. The Division shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker ~~[Testing]~~ Analysis, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker ~~[Testing]~~ Analysis must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting ~~[an analysis to determine the genetic markers]~~ *genetic marker analysis* of the *biological* specimens.

Sec. 24. NRS 176.0917 is hereby amended to read as follows:

176.0917 1. The board of county commissioners of each county shall designate a forensic laboratory to conduct or oversee for the county any genetic marker ~~[testing]~~ analysis that is ~~[ordered or arranged]~~ required pursuant to NRS 176.0913 or 176.0916 ~~[.]~~ or section 13 of this act.

2. The forensic laboratory designated by the board of county commissioners pursuant to subsection 1:

- (a) Must be operated by this State or one of its political subdivisions; and
- (b) Must satisfy or exceed the standards for quality assurance that are established by the Federal Bureau of Investigation for participation in CODIS.

Sec. 25. NRS 179.225 is hereby amended to read as follows:

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

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

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

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

➤ and the per diem allowance and travel expenses provided for state officers and employees generally incurred in returning the prisoner.

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

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062 ~~[]~~ *and section 15 of this act.*

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

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

Sec. 26. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the ~~{genetic markers of a biological specimen}~~ *DNA profile* of a person ~~{who is convicted of an offense listed in subsection 4 of}~~ *from whom a biological specimen is obtained pursuant to NRS 176.0913, or section 13 of this act*, to the Division. The information must be submitted to the Division:

- (a) Through an electronic network;
- (b) On a medium of magnetic storage; or
- (c) In the manner prescribed by the Director of the Department,

↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

- (a) Collect, maintain and arrange all information submitted to it relating to:

- (1) Records of criminal history; and
- (2) The ~~{genetic markers of a biological specimen}~~ *DNA profile* of a person ~~{who is convicted of an offense listed in subsection 4 of}~~ *from whom a biological specimen is obtained pursuant to NRS 176.0913 [-] or section 13 of this act*.

- (b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

- (c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

- (a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

- (b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

- (c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

- (1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

- (2) With whom any agency of the State of Nevada or any political

subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183 and 449.123; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➡ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➡ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↪ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183, 449.122 or 449.123.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 27. NRS 179D.151 is hereby amended to read as follows:

179D.151 1. A record of registration must include, if the information is available:

~~{1-}~~ (a) Information identifying the offender or sex offender, including, but not limited to:

~~{(a)}~~ (1) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which he or she has been known;

~~{(b)}~~ (2) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

~~{(c)}~~ (3) The date of birth and the social security number of the offender or sex offender;

~~{(d)}~~ (4) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card;

~~{(e)} A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender pursuant to NRS 176.0913;~~

(5) Information indicating whether the DNA profile and DNA record of the offender or sex offender has been entered in CODIS; and

~~{(f)}~~ (6) Any other information that identifies the offender or sex offender.

~~{2-}~~ (b) Except as otherwise provided in ~~{subsection 3-}~~ paragraph (c), information concerning the residence of the offender or sex offender, including, but not limited to:

~~{(a)}~~ (1) The address at which the offender or sex offender resides;

~~{(b)}~~ (2) The length of time the offender or sex offender has resided at that address and the length of time the offender or sex offender expects to reside at that address;

~~{(c)}~~ (3) The address or location of any other place where the offender or sex offender expects to reside in the future and the length of time the offender or sex offender expects to reside there; and

~~{(d)}~~ (4) The length of time the offender or sex offender expects to remain in the county where the offender or sex offender resides and in this State.

~~{3-}~~ (c) If the offender or sex offender has no fixed residence, the address of any dwelling that is providing the offender or sex offender temporary shelter, or any other location where the offender or sex offender habitually sleeps, including, but not limited to, the cross streets, intersection, direction and identifiable landmarks of the city, county, state and zip code of that location.

~~{4-}~~ (d) Information concerning the offender's or sex offender's

occupations, employment or work or expected occupations, employment or work, including, but not limited to, the name, address and type of business of all current and expected future employers of the offender or sex offender.

~~{5.}~~ (e) Information concerning the offender's or sex offender's volunteer service or expected volunteer service in connection with any activity or organization within this State, including, but not limited to, the name, address and type of each such activity or organization.

~~{6.}~~ (f) Information concerning the offender's or sex offender's enrollment or expected enrollment as a student in any public or private educational institution or school within this State, including, but not limited to, the name, address and type of each such educational institution or school.

~~{7.}~~ (g) Information concerning whether:

~~{(a)}~~ (1) The offender or sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of the offender's or sex offender's enrollment at an institution of higher education; or

~~{(b)}~~ (2) The offender or sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of the offender's or sex offender's work at an institution of higher education,

↳ including, but not limited to, the name, address and type of each such institution of higher education.

~~{8.}~~ (h) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender.

~~{9.}~~ (i) The level of registration and community notification of the offender or sex offender.

~~{10.}~~ (j) The criminal history of the offender or sex offender, including, without limitation:

~~{(a)}~~ (1) The dates of all arrests and convictions of the offender or sex offender;

~~{(b)}~~ (2) The status of parole, probation or supervised release of the offender or sex offender;

~~{(c)}~~ (3) The status of the registration of the offender or sex offender; and

~~{(d)}~~ (4) The existence of any outstanding arrest warrants for the offender or sex offender.

~~{11.}~~ (k) The following information for each offense for which the offender or sex offender has been convicted:

~~{(a)}~~ (1) The court in which the offender or sex offender was convicted;

~~{(b)}~~ (2) The text of the provision of law defining each offense;

~~{(c)}~~ (3) The name under which the offender or sex offender was convicted;

~~{(d)}~~ (4) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender or sex offender was committed;

~~{(e)}~~ (5) The specific location where the offense was committed;

~~[(6)]~~ (6) The age, the gender, the race and a general physical description of the victim; and

~~[(7)]~~ (7) The method of operation that was used to commit the offense, including, but not limited to:

~~[(1)]~~ (I) Specific sexual acts committed against the victim;

~~[(2)]~~ (II) The method of obtaining access to the victim, such as the use of enticements, threats, forced entry or violence against the victim;

~~[(3)]~~ (III) The type of injuries inflicted on the victim;

~~[(4)]~~ (IV) The types of instruments, weapons or objects used;

~~[(5)]~~ (V) The type of property taken; and

~~[(6)]~~ (VI) Any other distinctive characteristic of the behavior or personality of the offender or sex offender.

~~[(12)]~~ (I) Any other information required by federal law.

2. *As used in this section:*

(a) "CODIS" has the meaning ascribed to it in section 4 of this act.

(b) "DNA profile" has the meaning ascribed to it in section 6 of this act.

(c) "DNA record" has the meaning ascribed to it in section 7 of this act.

Sec. 28. NRS 179D.443 is hereby amended to read as follows:

179D.443 1. When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.445, 179D.460 or 179D.480, or updates the registration as required pursuant to NRS 179D.447:

~~[(1)]~~ (a) The offender or sex offender shall provide the local law enforcement agency with the following:

~~[(a)]~~ (1) The name of the offender or sex offender and all aliases that the offender or sex offender has used or under which the offender or sex offender has been known;

~~[(b)]~~ (2) The social security number of the offender or sex offender;

~~[(c)]~~ (3) The address of any residence or location at which the offender or sex offender resides or will reside;

~~[(d)]~~ (4) The name and address of any place where the offender or sex offender is a worker or will be a worker;

~~[(e)]~~ (5) The name and address of any place where the offender or sex offender is a student or will be a student;

~~[(f)]~~ (6) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

~~[(g)]~~ (7) Any other information required by federal law.

~~[(2)]~~ (b) If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, *or section 13 of this act*, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides, is present or is a worker or student to conduct or oversee genetic marker ~~testing~~ analysis for the county pursuant to NRS 176.0917.

~~{3-}~~ (c) The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

~~{(a)}~~ (1) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

~~{(b)}~~ (2) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

~~{(c)}~~ (3) The criminal history of the offender or sex offender, including, without limitation:

~~{(1)}~~ (I) The dates of all arrests and convictions of the offender or sex offender;

~~{(2)}~~ (II) The status of parole, probation or supervised release of the offender or sex offender;

~~{(3)}~~ (III) The status of the registration of the offender or sex offender; and

~~{(4)}~~ (IV) The existence of any outstanding arrest warrants for the offender or sex offender;

~~{(d)}~~ A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender;

~~{(e)}~~ (4) Information indicating whether the DNA profile and DNA record of the offender or sex offender has been entered in CODIS;

(5) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

~~{(f)}~~ (6) Any other information required by federal law.

2. As used in this section:

(a) "CODIS" has the meaning ascribed to it in section 4 of this act.

(b) "DNA profile" has the meaning ascribed to it in section 6 of this act.

(c) "DNA record" has the meaning ascribed to it in section 7 of this act.

Sec. 29. NRS 209.247 is hereby amended to read as follows:

209.247 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from any money deposited in the individual account of an offender from any source other than the offender's wages:

1. An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260.

2. An amount the Director considers reasonable to meet an existing obligation of the offender for the support of the offender's family.

3. An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this subsection may include, but is not limited to, an amount to offset the cost

of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

4. A deduction pursuant to NRS 209.246.

5. An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release or, if the offender dies before his or her release, to defray expenses related to arrangements for the offender's funeral.

6. An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime.

7. An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from a source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

8. An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from any source other than the wages earned by the offender during his or her incarceration, pursuant to this subsection, must be submitted:

(a) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which he or she is incarcerated.

(b) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which any fine or administrative assessment is owing, until the balance owing has been paid.

9. An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

↪ The Director shall determine the priority of any other deduction authorized by law from any source other than the wages earned by the offender during his or her incarceration.

Sec. 30. NRS 209.463 is hereby amended to read as follows:

209.463 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from the wages earned by an offender from any source during the offender's incarceration:

1. If the hourly wage of the offender is equal to or greater than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount the Director considers reasonable to meet an existing obligation of the offender for the support of his or her family.

(c) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(d) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(e) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

(f) A deduction pursuant to NRS 209.246.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release, or if the offender dies before his or her release, to defray expenses related to arrangements for his or her funeral.

(h) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to any victim of his or her crime.

(i) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(j) An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

(k) An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which a fine or administrative assessment is owing, until the balance owing has been paid.

➡ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

2. If the hourly wage of the offender is less than the federal minimum wage:

(a) An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

(b) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(c) An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.

(d) An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

(e) A deduction pursuant to NRS 209.246.

(f) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker ~~testing~~ analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to the offender's release, or if the offender dies before the offender's release, to defray expenses related to arrangements for the offender's funeral.

➡ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

Sec. 31. NRS 211.245 is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an incorporated city may file a civil action in any court of competent jurisdiction within this State seeking recovery of:

- (a) The amount of reimbursement due;
- (b) Costs incurred in conducting an investigation of the financial status of the prisoner; and
- (c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

- (a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;
- (b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;
- (c) Include the record of judgment of conviction, if available;
- (d) Indicate the length of time served by the prisoner and, if the prisoner has been released, the date of his or her release; and
- (e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or the prisoner's spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

- (a) Child support or alimony;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062, *and section 15 of this act*,

➡ has priority over the payment of a judgment entered pursuant to this section.

Sec. 32. NRS 249.085 is hereby amended to read as follows:

249.085 On or before the 15th day of each month, the county treasurer shall report to the State Controller the amount of the administrative assessments paid by each justice court for the preceding month pursuant to NRS 176.059 and 176.0613 ~~and section 15 of this act.~~

Sec. 33. 1. If a person is convicted of an offense listed in subsection 4 of NRS 176.0913, regardless of the date upon which the conviction is entered, and the person has not previously submitted a biological specimen ~~to~~ ~~(a) The~~, the Department of Corrections shall arrange for a biological specimen to be obtained before the person is released from custody, if the person is in the custody of the Department of Corrections.

~~[(b) The Division of Parole and Probation of the Department of Public Safety shall arrange for a biological specimen to be obtained from the person, if the person is located in this State but is not in the custody of the Department of Corrections.]~~

2. For the purposes of NRS 176.0911 to 176.0917, inclusive, as amended by this act, a biological specimen obtained pursuant to this section shall be deemed to be a biological specimen obtained pursuant to NRS 176.0913, must be treated as a biological specimen obtained pursuant to NRS 176.0913 and is subject to the provisions of NRS 176.0913 as if the biological specimen were obtained pursuant to NRS 176.0913.

Sec. 34. 1. Except as otherwise provided in subsection 2, the amendatory provisions of this act apply to a person who is arrested on or after July 1, 2014.

2. The provisions of:

(a) Section 15 of this act apply to a person who pleads guilty, is found guilty or enters a plea of nolo contendere to a misdemeanor, gross misdemeanor or felony, including the violation of any municipal ordinance, on or after July 1, 2013.

(b) Section 33 of this act apply to a person who is convicted of an offense listed in subsection 4 of NRS 176.0913 before, on or after July 1, 2014.

Sec. 35. This act becomes effective on July 1, 2013.

Senator Segerblom moved that the Senate concur in the Assembly Amendment No. 661 to Senate Bill No. 243.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 225, 284, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 113, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 218, 363, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 218.

Bill read second time.

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

Amendment No. 761.

"SUMMARY—Revises provisions relating to public works. (BDR 28-981)"

"AN ACT relating to public works; defining the term "bona fide fringe benefit" for certain provisions applicable to the payment of wages for public works; revising the requirements pursuant to which a contractor or subcontractor engaged on a public work may discharge his or her obligation to pay prevailing wages to workers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth general provisions applicable to public works, including provisions requiring the payment of prevailing wages for public works projects. (NRS 338.010-338.090) Existing law also authorizes the Labor Commissioner: (1) to provide certain remedies for violations of those provisions; and (2) after providing notice and an opportunity for a hearing, to impose an administrative penalty against a person who violates those provisions. (NRS 338.015, 338.017, 338.090) Further, under existing law, a contractor or subcontractor engaged on a public work is authorized to discharge his or her obligation to pay prevailing wages to workers in part by making certain contributions in the name of the worker. (NRS 338.035)

Section 4 of this bill sets forth the requirements pursuant to which a contractor or subcontractor engaged on a public work may discharge any part of his or her obligation to pay prevailing wages to a worker by providing bona fide fringe benefits in the name of the worker. Those requirements include, among other things, that the bona fide fringe benefits are paid

equally for all hours worked in a calendar year by the worker for the contractor or subcontractor. Section 1 of this bill defines "bona fide fringe benefit" for the purposes of the provisions applicable to public works. Section 4 also requires the Labor Commissioner, after providing notice and an opportunity for a hearing, to: (1) impose an administrative penalty against a contractor or subcontractor who violates the provisions of that section; (2) require the contractor or subcontractor to make the affected worker whole by paying to the worker as wages any amounts disallowed as bona fide fringe benefits; (3) report the violation to the Attorney General; and (4) notify certain governmental and other entities of the violation.

Existing law provides that if an administrative penalty is imposed against a person for the commission of an offense as defined in relation to public works: (1) the person and any corporate officer of the person are prohibited from receiving a contract for a public work for specified periods depending on the number of offenses; and (2) the Labor Commissioner is required to notify the State Contractors' Board with regard to each contractor who is prohibited from being awarded such a contract. (NRS 338.010, 338.017) Section 1 of this bill makes this provision of existing law applicable to discharging an obligation to pay wages in a manner that violates the provisions of section 4 by adding that violation to the definition of an "offense" in section 1.

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

Section 1. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. *"Bona fide fringe benefit" means a benefit in the form of a contribution that is made not less frequently than monthly to an independent third party pursuant to a fund, plan or program:*

(a) Which is established for the sole and exclusive benefit of a worker and his or her family and dependents; and

(b) For which none of the assets will revert to, or otherwise be credited to, any contributing employer or sponsor of the fund, plan or program.

↪ The term includes, without limitation, benefits for a worker that are determined pursuant to a collective bargaining agreement ~~and~~ and included in the determination of the prevailing wage by the Labor Commissioner pursuant to NRS 338.030.

3. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

~~{3-}~~ 4. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

~~{4-}~~ 5. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

~~{5-}~~ 6. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

~~{6-}~~ 7. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

~~{7-}~~ 8. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

~~{8-}~~ 9. "Division" means the State Public Works Division of the Department of Administration.

~~{9-}~~ 10. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

~~{10-}~~ 11. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

~~{11.}~~ 12. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~{12.}~~ 13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~{13.}~~ 14. "Offense" means ~~{failing}~~ :

(a) *Failing to:*

~~{(a)}~~ (1) Pay the prevailing wage required pursuant to this chapter;

~~{(b)}~~ (2) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

~~{(c)}~~ (3) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

~~{(d)}~~ (4) Comply with subsection 4 or 5 of NRS 338.070.

~~{14.}~~ (b) *Discharging an obligation to pay wages in a manner that violates the provisions of NRS 338.035.*

15. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➤ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~{15.}~~ 16. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~{16.}~~ 17. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;
(3) Public roads;
(4) Public highways;
(5) Public streets and alleys;
(6) Public utilities;
(7) Publicly owned water mains and sewers;
(8) Public parks and playgrounds;
(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~{17-}~~ 18. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~{18-}~~ 19. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

↪ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~{19-}~~ 20. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

↪ for the provision of labor, materials, equipment or supplies for a construction project.

~~{20-}~~ 21. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~{21-}~~ 22. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~{22-}~~ 23. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training ~~for other similar programs~~ or other bona fide fringe benefits which are a benefit to the worker.

~~{23-}~~ 24. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a

contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2. NRS 338.015 is hereby amended to read as follows:

338.015 1. The Labor Commissioner shall enforce the provisions of NRS 338.010 to 338.130, inclusive.

2. ~~It is~~ *Except as otherwise provided in NRS 338.035 and in addition to any other remedy or penalty provided in this chapter, if any person, including, without limitation, a public body, violates any provision of NRS 338.010 to 338.130, inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner may, after providing the person with notice and an opportunity for a hearing, impose against the person an administrative penalty of not more than \$5,000 for each such violation.*

3. The Labor Commissioner may, by regulation, establish a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this section.

4. The Labor Commissioner shall report the violation to the Attorney General, and the Attorney General may prosecute the person in accordance with law.

Sec. 3. NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~16~~ 17 of NRS 338.010.

Sec. 4. NRS 338.035 is hereby amended to read as follows:

338.035 1. The obligation of a contractor engaged on a public work or a subcontractor engaged on a public work to pay wages in accordance with the determination of the Labor Commissioner may be discharged in part by ~~making contributions to a third person pursuant to a fund, plan or program~~ *providing bona fide fringe benefits in the name of the worker.*

2. *A contractor or subcontractor may, pursuant to subsection 1, discharge any part of his or her obligation to pay wages in accordance with the determination of the Labor Commissioner only to the extent that the bona fide fringe benefits provided in the name of the worker are annualized.*

3. *A contractor or subcontractor who, pursuant to subsection 1, discharges any part of his or her obligation to pay wages in accordance with the determination of the Labor Commissioner shall provide to the Labor Commissioner and the public body that awarded the contract for the public work any information requested by the Labor Commissioner or the public body, as applicable, to verify compliance with this section.*

4. *In addition to any other remedy or penalty provided in this chapter, after providing the contractor or subcontractor with notice and an opportunity for a hearing, the Labor Commissioner shall, if the Labor*

Commissioner finds that the contractor or subcontractor has violated a provision of this section:

(a) For the first violation, impose against the contractor or subcontractor an administrative penalty of not less than \$2,500 or more than \$5,000;

(b) For the second or any subsequent violation within 5 years after the date of imposition of an administrative penalty pursuant to paragraph (a), impose against the contractor or subcontractor an administrative penalty of not less than \$5,000;

(c) Require the contractor or subcontractor to make the affected worker whole by paying to the worker as wages any amounts disallowed as bona fide fringe benefits in a manner prescribed by the Labor Commissioner;

(d) Report the violation to the Attorney General, and the Attorney General may prosecute the contractor or subcontractor in accordance with law; and

(e) In addition to notifying the State Contractors' Board pursuant to NRS 338.017, notify the provider of workers' compensation for the contractor or subcontractor, the Employment Security Division of the Department of Employment, Training and Rehabilitation and the public body that awarded the contract for the public work of the violation.

5. The provisions of this section do not apply with regard to:

(a) A worker whose benefits are determined pursuant to a collective bargaining agreement; or

(b) Contributions made in the name of the worker by a contractor or subcontractor to a defined contribution plan to the extent that the amount contributed does not exceed 25 percent of the hourly rate of wages paid to the worker on the public work.

6. As used in this section:

(a) "Annualized" means an amount paid equally for all hours worked in a calendar year by the worker for the contractor or subcontractor who is providing bona fide fringe benefits.

(b) "Defined contribution plan" has the meaning ascribed to it in 29 U.S.C. § 1002(34).

Sec. 5. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~146~~ 17 of NRS 338.010.

Sec. 6. NRS 338.090 is hereby amended to read as follows:

338.090 1. Any person, including the officers, agents or employees of a public body, who violates any provision of NRS 338.010 to 338.090, inclusive, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. The Labor Commissioner, in addition to any other remedy or penalty provided in this chapter:

(a) Shall , *except as otherwise provided in subsection 4*, assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, an amount equal to the difference between the prevailing wages required to be paid and the wages that the contractor or subcontractor actually paid; and

(b) May, in addition to any other administrative penalty, impose an administrative penalty not to exceed the costs incurred by the Labor Commissioner to investigate and prosecute the matter.

3. If the Labor Commissioner finds that a person has failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, the public body may, in addition to any other remedy or penalty provided in this chapter, require the person to pay the actual costs incurred by the public body to investigate the matter.

4. *The Labor Commissioner is not required to assess a person an amount equal to the difference between the prevailing wages required to be paid and the wages that the contractor or subcontractor actually paid if the contractor or subcontractor has already paid that amount to a worker pursuant to paragraph (c) of subsection 4 of NRS 338.035.*

Sec. 7. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in

42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~[12]~~ 13 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

➡ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 8. Section 9.5 of the Reno-Tahoe Airport Authority Act, being chapter 369, Statutes of Nevada 2005, at page 1386, is hereby amended to read as follows:

Sec. 9.5. 1. Except as otherwise determined by the Board or provided in subsection 2, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, acquisition, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by the Board if the Board:

- (a) Complies with the provisions of subsection 3; and
- (b) Finances the contract, project, acquisition, works or improvement by means of:

- (1) Revenue bonds issued by the Authority; or
- (2) An installment obligation of the Authority in a transaction in which:

(I) The Authority acquires real or personal property and another person acquires or retains a security interest in that or other property; and

(II) The obligation by its terms is extinguished by failure of the Board to appropriate money for the ensuing fiscal year for payment of the amounts then due.

2. A contract entered into by the Board pursuant to this section must:

(a) Contain a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work performed pursuant to the contract; and

(b) If the contract is with a design professional who is not a member of a design-build team, comply with the provisions of NRS 338.155. As used in this paragraph, "design professional" has the meaning ascribed to it in subsection ~~7~~ 8 of NRS 338.010.

3. For contracts entered into pursuant to this section that are exempt from the provisions of chapters 332, 338 and 339 of NRS pursuant to subsection 1, the Board shall adopt regulations pursuant to subsection 4 which establish:

(a) One or more competitive procurement processes for letting such a contract; and

(b) A method by which a bid on such a contract will be adjusted to give a 5 percent preference to a contractor who would qualify for a preference pursuant to NRS 338.147, if:

(1) The estimated cost of the contract exceeds \$250,000; and

(2) Price is a factor in determining the successful bid on the contract.

4. The Board:

(a) Shall, before adopting, amending or repealing a permanent or temporary regulation pursuant to subsection 3, give at least 30 days' notice of its intended action. The notice must:

(1) Include:

(I) A statement of the need for and purpose of the proposed regulation.

(II) Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(III) The estimated cost to the Board for enforcement of the proposed regulation.

(IV) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(V) A statement indicating whether the regulation establishes a new fee or increases an existing fee.

(2) State each address at which the text of the proposed regulation may be inspected and copied.

(3) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the Authority for that purpose.

(b) May adopt, if it has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this subsection, after

providing a second notice and the opportunity for a hearing, a permanent regulation.

(c) Shall, in addition to distributing the notice to each recipient of the Board's regulations, solicit comment generally from the public and from businesses to be affected by the proposed regulation.

(d) Shall, before conducting a workshop pursuant to paragraph (g), determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the Board determines that such an impact is likely to occur, the Board shall:

(1) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.

(2) Consider methods to reduce the impact of the proposed regulation on small businesses.

(3) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted pursuant to paragraph (g) and the public hearing held pursuant to paragraph (h).

(e) Shall ensure that a small business impact statement prepared pursuant to subparagraph (3) of paragraph (d) sets forth the following information:

(1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(2) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(I) Both adverse and beneficial effects; and

(II) Both direct and indirect effects.

(3) A description of the methods that the Board considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the Board actually used any of those methods.

(4) The estimated cost to the Board for enforcement of the proposed regulation.

(5) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Board expects to collect and the manner in which the money will be used.

(f) Shall afford a reasonable opportunity for all interested persons to submit data, views or arguments upon the proposed regulation, orally or in writing.

(g) Shall, before holding a public hearing pursuant to paragraph (h), conduct at least one workshop to solicit comments from interested

persons on the proposed regulation. Not less than 15 days before the workshop, the Board shall provide notice of the time and place set for the workshop:

(1) In writing to each person who has requested to be placed on a mailing list; and

(2) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

(h) Shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the Board may proceed immediately to act upon any written submissions. The Board shall consider fully all written and oral submissions respecting the proposed regulation.

(i) Shall keep, retain and make available for public inspection written minutes of each public hearing held pursuant to paragraph (h) in the manner provided in subsections 1 and 2 of NRS 241.035.

(j) May record each public hearing held pursuant to paragraph (h) and make those recordings available for public inspection in the manner provided in subsection 4 of NRS 241.035.

(k) Shall ensure that a small business which is aggrieved by a regulation adopted pursuant to this subsection may object to all or a part of the regulation by filing a petition with the Board within 90 days after the date on which the regulation was adopted. Such petition may be based on the following:

(1) The Board failed to prepare a small business impact statement as required pursuant to subparagraph (3) of paragraph (d); or

(2) The small business impact statement prepared by the Board did not consider or significantly underestimated the economic effect of the regulation on small businesses.

➡ After receiving a petition pursuant to this paragraph, the Board shall determine whether the petition has merit. If the Board determines that the petition has merit, the Board may, pursuant to this subsection, take action to amend the regulation to which the small business objected.

5. The determinations made by the Board pursuant to this section are conclusive unless it is shown that the Board acted with fraud or a gross abuse of discretion.

Sec. 9. This act becomes effective on July 1, 2013.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 761 to Assembly Bill No. 218 adds to the definition of “*bona fide* fringe benefit” those benefits that are determined pursuant to a collective bargaining agreement and are “included in the determination of the prevailing wage by the Labor Commissioner.”

Amendment adopted.

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

Assembly Bill No. 225.

Bill read second time.

The following amendment was proposed by Senator Atkinson:

Amendment No. 785.

"SUMMARY—Revises provisions relating to business brokers. (BDR 54-1017)"

"AN ACT relating to business brokers; revising the definition of the term "business broker"; limiting the application of the term to the performance of certain acts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, or advertise or assume to act as, a business broker within this State without first obtaining from the Real Estate Division of the Department of Business and Industry a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in business as a business broker. (NRS 645.230) Existing law defines a "business broker" as a person who, while acting as a real estate broker, real estate broker-salesperson or real estate salesperson for another and for compensation or with the intention or expectation of receiving compensation: (1) sells, exchanges, options or purchases a business; (2) negotiates or offers, attempts or agrees to negotiate the sale, exchange, option or purchase of a business; or (3) lists or solicits prospective purchasers of a business. (NRS 645.0075) This bill revises the definition of the term "business broker" to limit its application to the acts described in NRS 645.0075 which are performed as part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property.

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

Section 1. NRS 645.0075 is hereby amended to read as follows:

645.0075 "Business broker" means a person who, while acting ~~as a real estate broker, real estate broker-salesperson or real estate salesperson~~ for another and for compensation or with the intention or expectation of receiving compensation ~~;~~ ~~and as part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property;~~

1. Sells, exchanges, options, ~~or~~ purchases, rents or leases a business ~~that is sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property;~~

2. Negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, ~~or~~ purchase, rental or lease of a business ~~that is or is~~

intended to be sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property; or

3. Lists or solicits prospective purchasers of a business ~~if~~ if a component of the listing or solicitation is an interest or estate in real property.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. After discussing with the sponsor of the bill and the agency, and due to a change in circumstances, and with the knowledge and approval of the members of the Senate Committee on Commerce, Labor and Energy, I would like to read a personal amendment to Assembly Bill No. 225. Amendment No. 785 makes one change to Assembly Bill 225. It revises the definition of business broker to include someone who rents or leases as a part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 284.

Bill read second time.

The following amendment was proposed by the Committee on Commerce, Labor and Energy:

Amendment No. 768.

"SUMMARY—Provides for the early termination of certain rental agreements by victims of domestic violence. (BDR 10-525)"

"AN ACT relating to residential leasing; providing for the early termination of certain rental agreements by victims of domestic violence under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides, under certain circumstances, for the early termination of a rental agreement if a tenant, cotenant or household member is a victim of domestic violence. Section ~~1.1~~ 1.3 of this bill: (1) establishes provisions concerning notice requirements for such an early termination; (2) establishes provisions concerning liability of unpaid amounts relating to the termination of a rental agreement; ~~and~~ (3) requires a landlord to install a new lock onto the dwelling of certain persons who are victims of domestic violence ~~and~~; and (4) establishes certain limitations concerning the disclosure to a prospective landlord of an early termination pursuant to this bill.

Section 1.7 of this bill establishes the form in which an affidavit submitted by a tenant or cotenant in support of a notice to terminate a rental agreement pursuant to this bill must be made.

Existing law prohibits a landlord from taking certain retaliatory actions against a tenant. (NRS 118A.510) Section 2 of this bill prohibits a landlord from taking certain retaliatory actions against a tenant, cotenant or household member who is a victim of domestic violence or who terminates a rental agreement because he or she is a victim of domestic violence.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. 1. Notwithstanding any provision in a rental agreement to the contrary, if a tenant, cotenant or household member is the victim of domestic violence, the tenant or any cotenant may terminate the rental agreement by giving the landlord written notice of termination effective at the end of the current rental period or 30 days after the notice is provided to the landlord, whichever occurs sooner.

2. The written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of an order for protection against domestic violence issued to the tenant, cotenant or household member who is the victim of domestic violence;

(b) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the domestic violence; or

(c) A copy of a written affidavit in the form prescribed pursuant to section 1.7 of this act and signed by a qualified third party acting in his or her official capacity stating that the tenant, cotenant or household member is a victim of domestic violence ~~and~~ and identifying the adverse party.

3. A tenant or cotenant may terminate a rental agreement pursuant to this section only if the actions, events or circumstances that resulted in the tenant, cotenant or household member becoming a victim of domestic violence occurred within the 90 days immediately preceding the written notice of termination to the landlord.

4. A tenant or cotenant who terminates a rental agreement pursuant to this section is only liable, if solely or jointly liable for purposes of the rental agreement, for any rent owed or required to be paid through the date of termination and any other outstanding obligations. If the tenant or cotenant has prepaid rent that would apply for the rental period in which the rental agreement is terminated, the landlord may retain the prepaid rent and no refund is due to the tenant or cotenant unless the amount of the prepaid rent exceeds what is owed for that rental period. Except as otherwise provided in NRS 118A.242, if the tenant or cotenant has paid a security deposit, the deposit must not be withheld for the early termination of the rental agreement if the rental agreement is terminated pursuant to this section.

5. A person who is named as the adverse party may be civilly liable for all economic losses incurred by a landlord for the early termination of a rental agreement pursuant to this section, including, without limitation, unpaid rent, fees relating to early termination, costs for the repair of any damages to the dwelling and any reductions in or waivers of rent previously

extended to the tenant or cotenant who terminates the rental agreement pursuant to this section.

6. A landlord shall not provide to an adverse party any information concerning the whereabouts of a tenant, cotenant or household member if the tenant or cotenant provided notice pursuant to subsection 1.

7. If a tenant or cotenant provided notice pursuant to subsection 1, the tenant, cotenant or a household member may require the landlord to install a new lock onto the dwelling if the tenant, cotenant or household member pays the cost of installing the new lock. A landlord complies with the requirements of this subsection by:

- (a) Rekeying the lock if the lock is in good working condition; or
- (b) Replacing the entire locking mechanism with a new locking mechanism of equal or superior quality.

8. A landlord who installs a new lock pursuant to subsection 7 may retain a copy of the new key. Notwithstanding any provision in a rental agreement to the contrary, the landlord shall:

(a) Refuse to provide a key which unlocks the new lock to an adverse party.

(b) Refuse to provide to an adverse party, whether or not that party is a tenant, cotenant or household member, access to the dwelling to reclaim property unless a law enforcement officer is present.

9. This section shall not be construed to limit a landlord's right to terminate a rental agreement for reasons unrelated to domestic violence.

10. Notwithstanding any other provision of law, the termination of a rental agreement pursuant to this section:

(a) Must not be disclosed, described or characterized as an early termination by a current landlord to a prospective landlord; and

(b) Is not required to be disclosed as an early termination by a tenant or cotenant to a prospective landlord.

11. As used in this section:

(a) "Adverse party" means a person who is named in an order for protection against domestic violence, a written report from a law enforcement agency or a written statement from a qualified third party and who is alleged to be the cause of the early termination of a rental agreement pursuant to this section.

(b) "Cotenant" means a tenant who, pursuant to a rental agreement, is entitled to occupy a dwelling that another tenant is also entitled to occupy pursuant to the same rental agreement.

(c) "Domestic violence" means the commission of any act described in NRS 33.018.

(d) "Household member" means any person who is related by blood or marriage and is actually residing with a tenant or cotenant.

(e) "Qualified third party" means:

(1) A physician licensed to practice in this State.

(2) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry of the American Osteopathic Association;

~~+(2)+~~ (3) A psychologist licensed to practice in this State;

~~+(3)+~~ (4) A social worker licensed to practice in this State;

~~+(4)+~~ (5) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

~~+(5)+~~ (6) A marriage and family therapist or clinical professional counselor licensed to practice in this State pursuant to chapter 641A of NRS;

~~+(6)+~~ (7) Any person employed by an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met and who is licensed to provide health care pursuant to the provisions of title 54 of NRS, or is a member of the board of directors or serves as the executive director of an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met;

~~+~~ ~~(7) A person who serves as a volunteer on the board of directors, or as a volunteer executive director, of an agency or service which is staffed, directed and managed entirely by volunteers and which has no paid employees and who advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met;~~ or

(8) Any member of the clergy ~~+~~ of a church or religious society or denomination that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501 (c)(3), who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination.

Sec. 1.7. An affidavit submitted by a tenant or cotenant pursuant to section 1.3 of this act must be in substantially the following form:

.....
(Name of the qualified third party, as defined in section 1.3 of this act, including, if applicable, the name of the organization with which the qualified third party is affiliated)

I (and/or)

(name of cotenant or household member)

am a victim of domestic violence as defined in section 1.3 of this act.

Brief description of incident(s) constituting domestic violence:

.....

.....
The incident(s) that I described above occurred on the following date(s) and time(s), and in the following locations:

.....

.....

The incident(s) that I described above were committed by the following person(s):

.....
I state under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this.....day of.....,20....., at (city), Nevada,

(Signature of tenant, cotenant
 or household member)

I verify that the person whose signature appears above was a victim of domestic violence and that the person informed me of the name of the adverse party as defined in section 1.3 of this act.

Dated this day of.....,20.....,at..... (city), Nevada,

(Signature of qualified third party)

Sec. 2. NRS 118A.510 is hereby amended to read as follows:

118A.510 1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential items or services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

(a) The tenant has complained in good faith of a violation of a building, housing or health code applicable to the premises and affecting health or safety to a governmental agency charged with the responsibility for the enforcement of that code;

(b) The tenant has complained in good faith to the landlord or a law enforcement agency of a violation of this chapter or of a specific statute that imposes a criminal penalty;

(c) The tenant has organized or become a member of a tenant's union or similar organization;

(d) A citation has been issued resulting from a complaint described in paragraph (a);

(e) The tenant has instituted or defended against a judicial or administrative proceeding or arbitration in which the tenant raised an issue of compliance with the requirements of this chapter respecting the habitability of dwelling units;

(f) The tenant has failed or refused to give written consent to a regulation adopted by the landlord, after the tenant enters into the rental agreement, which requires the landlord to wait until the appropriate time has elapsed before it is enforceable against the tenant; ~~{or}~~

(g) The tenant has complained in good faith to the landlord, a government agency, an attorney, a fair housing agency or any other appropriate body of a violation of NRS 118.010 to 118.120, inclusive, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise exercised rights which are guaranteed or protected under those laws ~~[-]~~; or

(h) *The tenant or, if applicable, a cotenant or household member, is a victim of domestic violence or terminates a rental agreement pursuant to section ~~HH~~ 1.3 of this act.*

2. If the landlord violates any provision of subsection 1, the tenant is entitled to the remedies provided in NRS 118A.390 and has a defense in any retaliatory action by the landlord for possession.

3. A landlord who acts under the circumstances described in subsection 1 does not violate that subsection if:

(a) The violation of the applicable building, housing or health code of which the tenant complained was caused primarily by the lack of reasonable care by the tenant, a member of his or her household or other person on the premises with his or her consent;

(b) The tenancy is terminated with cause;

(c) A citation has been issued and compliance with the applicable building, housing or health code requires alteration, remodeling or demolition and cannot be accomplished unless the tenant's dwelling unit is vacant; or

(d) The increase in rent applies in a uniform manner to all tenants.

↪ The maintenance of an action under this subsection does not prevent the tenant from seeking damages or injunctive relief for the landlord's failure to comply with the rental agreement or maintain the dwelling unit in a habitable condition as required by this chapter.

4. *As used in this section:*

(a) *"Cotenant" has the meaning ascribed to it in section ~~HH~~ 1.3 of this act.*

(b) *"Domestic violence" has the meaning ascribed to it in section ~~HH~~ 1.3 of this act.*

(c) *"Household member" has the meaning ascribed to it in section ~~HH~~ 1.3 of this act.*

Sec. 3. This act becomes effective on July 1, 2013.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 768 makes six changes to Assembly Bill No. 284:

- (1) includes "identifying the adverse party" in an affidavit signed by a qualified third party;
- (2) adds physicians and clinical professional counselors to the list of qualified third parties;
- (3) expands the term clergy as used under the list of a qualified third party; (4) deletes from the list of qualified third parties a volunteer who advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met; (5) prohibits a landlord from characterizing the termination of a rental agreement pursuant to the act as an early termination and provides that the tenant or cotenant is not required to disclose the termination to a prospective landlord; and (6) requires that an affidavit be made in a specific form.

Amendment adopted.

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

Assembly Bill No. 363.

Bill read second time.

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

Amendment No. 759.

"SUMMARY—Makes various changes relating to abatement of public nuisances and conditions by local governments. (BDR 20-663)"

"AN ACT relating to local governments; authorizing boards of county commissioners to abate public nuisances involving litter, garbage, abandoned or junk vehicles and junk appliances; authorizing certain local governments to abate public nuisances and conditions involving abandoned ~~[, inoperable]~~ or junk vehicles by requesting the operator of a tow car to abate the public nuisance or condition; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a board of county commissioners of a county or the governing body of a city may adopt by ordinance procedures pursuant to which the board or governing body, or a designee thereof, may order an owner of property to abate a public nuisance or condition on the property, including the clearing of certain debris, to protect the public health, safety and welfare of the residents of the county or city. (NRS 244.3605, 268.4122) Existing law further provides that if, after the provision of notice about the nuisance or condition and an opportunity for a hearing, the property owner does not abate the nuisance or condition, the county or city may abate the nuisance or condition and recover from the property owner the amount expended by the county or city for the labor and materials used to abate the nuisance or condition.

Section 2 of this bill adds litter, garbage, abandoned ~~[, inoperable]~~ or junk vehicles ~~[which are not concealed from ordinary public view]~~ and junk appliances to the list of conditions that constitute a public nuisance for the purposes of an ordinance adopted by a board of county commissioners ~~[in a county whose population is 700,000 or more (currently only Clark County)]~~. Section 2 also provides that in a county whose population is 700,000 or more (currently only Clark County), such an ordinance may authorize the county to request the operator of a tow car to abate a public nuisance by towing an abandoned ~~[, inoperable]~~ or junk vehicle that is not concealed from ordinary public view if certain requirements relating to notice and the opportunity for a hearing are satisfied. Similarly, section 3 of this bill ~~[adds vehicles which are abandoned, inoperable or junk and which are not concealed from ordinary public view to the list of conditions that constitute an unhealthful or unsafe condition]~~ for the purposes of an ordinance adopted by the governing body of a city in any county whose population is 700,000 or

more (currently only Clark County), ~~and~~ provides that such an ordinance may authorize the city to request the operator of a tow car to abate such a condition by towing an abandoned, ~~inoperable~~ or junk vehicle that is not concealed from ordinary public view if certain requirements relating to notice and the opportunity for a hearing are satisfied.

Existing law provides for the regulation of tow cars and the operators of tow cars. (NRS 706.445-706.453) Sections 2 and 3 provide that the operator of a tow car who is requested by a county or city to tow a vehicle to abate a public nuisance or condition must comply with those provisions. Section 4 of this bill provides that the registered owner of a vehicle towed pursuant to a request by a county or a city to abate a public nuisance or condition is responsible for the cost of removal and storage of the vehicle.

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

Section 1. NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,
➡ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address

and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~6~~ 7 of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:

(1) The occupants, if any, of the real property on which the structure or condition is located; or

(2) The general public.

Sec. 2. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, ~~land~~ refuse, ~~litter, garbage, abandoned or junk vehicles or junk appliances~~ which ~~is~~ are not subject to the provisions of chapter 459 of NRS;

(c) ~~In any county whose population is 700,000 or more, clear abandoned, inoperable or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means;~~

~~(d)~~ Clear weeds and noxious plant growth; or

~~(d)~~ ~~(e)~~ Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section, to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance.

(2) If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.

(3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of

competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. *In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the county to request the operator of a tow car to abate a public nuisance by towing abandoned ~~or inoperable~~ or junk vehicles ~~as described in paragraph (c) of subsection 1~~ which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the conditions of subsection 4 are satisfied. The operator of a tow car requested to tow a vehicle pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive.*

4. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance *or request abatement by the operator of a tow car pursuant to subsection 3 if:*

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

~~{4.}~~ 5. In addition to any other reasonable means for recovering money expended by the county to abate the public nuisance and, except as otherwise provided in subsection ~~{5.}~~ 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the expense and civil penalties are a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

~~{5.}~~ 6. Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection ~~{4}~~ 5 unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

~~{6-}~~ 7. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

Sec. 3. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) ~~In any county whose population is 700,000 or more, clear abandoned, inoperable or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means; or~~

~~(d)~~ Clear weeds and noxious plant growth,
 ➔ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition.

(2) If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.

(3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. *In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the city to request the operator of a tow car to abate a condition by towing abandoned ~~or inoperable~~ or junk vehicles ~~as described in paragraph (c) of subsection 1~~ which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the governing body or its designee has directed the abatement of the condition pursuant to subsection 4. The operator of a tow car requested to tow a vehicle by a city pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive.*

4. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

~~{4-}~~ 5. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection ~~{5-}~~ 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the governing body may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and

sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

~~{5-}~~ 6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection ~~{4}~~ 5 by the governing body unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

~~{6-}~~ 7. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 4. NRS 706.4477 is hereby amended to read as follows:

706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(d) The operator may be directed to terminate the towing by a law enforcement officer.

2. *If towing is requested by a county or city pursuant to NRS 244.3605 or 268.4122, as applicable:*

(a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(b) The operator may be directed to terminate the towing by a law enforcement officer.

3. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1 ~~{1}~~ or 2:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

~~{3}~~ 4. The registered owner may rebut the presumption in subsection ~~{2}~~ 3 by showing that:

(a) The registered owner transferred the registered owner's interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if the registered owner submits evidence that, before the discovery of the vehicle, the registered owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

Sec. 5. (Deleted by amendment.)

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 759 to Assembly Bill No. 363 makes a couple of technical corrections to the bill to clarify that, only in a county with a population of 700,000 or more, currently Clark County, may a county, by ordinance, provide that the county or a city may request that a tow car operator abate a public nuisance by towing an abandoned or junk vehicle.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 113.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 792.

"SUMMARY—Makes various changes to provisions governing the termination of parental rights. (BDR 11-434)"

"ACT relating to domestic relations; requiring the Health Division of the Department of Health and Human Services to establish a Registry of Putative Fathers; providing for a summary petition for termination of parental rights in certain circumstances; revising various provisions governing the termination of parental rights and adoption of children of putative fathers; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Health Division of the Department of Health and Human Services to establish a Registry of Putative Fathers. A person who registers in the Registry is entitled to receive notice of a proceeding which is commenced in this State for the adoption of, or termination of parental rights regarding, a child. Section 5 further requires

the Health Division to establish and maintain a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry. Section 6 of this bill requires a putative father who wishes to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child to register with the Registry by submitting a form within a certain period. Section 6.5 of this bill provides that a putative father who fails to register with, or who withdraws his registration from, the Registry: (1) waives his right to receive notice of such proceedings; (2) is not a parent whose consent must be obtained before the child may be adopted; and (3) may not allege in any such proceedings that his failure to register with the Registry is excused because he did not have notice of the pregnancy. Existing law defines the term "putative father," for purposes of provisions relating to the termination of parental rights, as any person who is or who is alleged to be the father of an illegitimate child. (NRS 128.016) Section 14 of this bill revises that definition by adding that the term "putative father" also includes a person who is not the presumed father, has not acknowledged paternity and has not been determined to be the legal father of the child. Therefore, any of those possible fathers may register with the Registry and are also included within other provisions relating to the termination of parental rights.

Section 7 of this bill allows a registrant in the Registry to withdraw his registration but provides that once withdrawn, the person may not submit another registration form for the same child. Section 8 of this bill provides that information contained in the Registry is confidential, except that information contained in the Registry may be provided to the persons and entities expressly authorized by section 8 to request and receive information from the Registry. Section 8 further provides for notification to the requesting person or entity regarding whether a registration exists in the Registry and, if so, further provides for notification to the registrant. Under section 8, a person or entity who intentionally releases information from the Registry to a person or entity who is not authorized to receive such information is guilty of a misdemeanor.

Section 9 of this bill requires the Health Division to develop the form to be used to register with the Registry. Section 10 of this bill requires the State Board of Health to adopt regulations to carry out the provisions relating to the establishment of the Registry and to establish certain fees relating to searching the Registry. Section 10 specifically prohibits, however, the imposition of a fee to register with, or withdraw a registration from, the Registry.

If a child has been relinquished for adoption or is proposed to be relinquished for adoption, existing law provides a specific procedure to be followed. If the father has not consented to the adoption or is not known, the mother must petition the court to have the parental rights of the father terminated, and the court must make certain inquiries to identify and protect the interests of the natural father. If any possible father is identified, he must be provided notice. If no possible father is identified, existing law requires

the court to enter an order terminating the parental rights of the unknown father. The possible father then has 6 months thereafter in which to appeal the termination of parental rights for lack of notice. After 6 months, the order may not be questioned by any person in any manner or upon any ground. (NRS 128.150)

Section 12 of this bill provides a different and expedited procedure to terminate the parental rights of a father when the mother of a child relinquishes or proposes to relinquish a child for adoption when no legal relationship has been established between the child and the father, the father cannot be identified or the child otherwise becomes the subject of an adoption proceeding. In such a case, section 12 authorizes the Attorney General or a district attorney authorized to file a petition to terminate parental rights, the agency or person to whom the child has been or is to be relinquished, or the mother or person who has custody of the child, to file a summary petition for termination of parental rights in certain circumstances. The summary petition allows the court to consider certain information and make a determination regarding whether to terminate parental rights without a hearing. Section 23 of this bill further clarifies that the summary petition may not be used if there is a presumed father, a father whose relationship to the child has been judicially determined or a father as to whom the child is a legitimate child under the prior law of this State or under the law of another state, and removes the provisions which provide the current procedure for addressing termination in the situations covered by section 12. (NRS 128.150)

When a summary petition is filed, sections 15-20 of this bill provide that the procedures otherwise required to be followed when relinquishment of a child for adoption is sought, including publication of notice, the manner of serving notice, provision of 6 months in which to appeal an adoption and other procedural requirements, do not apply. Instead, section 12 provides a different procedure. Before filing the summary petition, the petitioner is required to request a search of the Registry of Putative Fathers and then to send notice of the filing of a summary petition to any putative father who is identified. Such notice must inform the putative father that he has 30 days in which to appear before the court or to notify the court that he has attempted to establish parentage of the child or the court may terminate his parental rights. In addition to searching the Registry, section 12 requires the petitioner to exercise due diligence to find any other putative father who is known to the petitioner. If a putative father is found, he must be notified of his right to register with the Registry and that the failure to register will result in the termination of his parental rights. Section 12 allows a certain period for a putative father to respond before the petition may be decided and further provides that the petition may not be decided sooner than 35 days after the birth of the child.

Existing law specifies the manner in which a court issues an order to terminate parental rights and provides that such an order is conclusive and

binding. Sections 21 and 22 of this bill make those provisions applicable when a court grants a summary petition for termination of parental rights pursuant to section 12.

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

Section 1. Chapter 128 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *"Health Division" means the Health Division of the Department of Health and Human Services.*

Sec. 3. *"Registrant" means a putative father who has registered with the Registry pursuant to section 6 of this act.*

Sec. 4. *"Registry" means the Registry of Putative Fathers established pursuant to section 5 of this act.*

Sec. 5. 1. *The Health Division shall establish a Registry of Putative Fathers.*

2. *The Registry must include, without limitation, the following information pertaining to a registrant:*

- (a) The name of the registrant;*
- (b) The date of birth of the registrant;*
- (c) The social security number of the registrant;*
- (d) The name, sex and date of birth of the child who is the subject of the registration, if known;*
- (e) The place of birth of the child who is the subject of the registration, if known;*
- (f) The address at which the registrant wishes to receive notice of the filing of a petition for termination of parental rights;*
- (g) The name of the mother of the child and any known aliases used by the mother;*
- (h) The address of the mother of the child, if known; and*
- (i) The social security number of the mother of the child, if known.*

3. *A registrant is entitled to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child which is commenced in this State.*

4. *The Health Division shall establish and maintain a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry.*

Sec. 6. 1. *A person who is the putative father of a child and who wishes to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, the child which is commenced in this State must register with the Registry by submitting to the Health Division the registration form developed by the Health Division pursuant to section 9 of this act:*

- (a) Before the birth of the child;*
- (b) Within 30 days after the birth of the child; or*

(c) Within 30 days after the date on which notice is provided pursuant to subsection 3 of section 12 of this act,

↪ whichever occurs later.

2. The Health Division shall not allow a person to register with the Registry after the periods specified in subsection 1.

3. A registration form shall be deemed to be filed in the Registry at the time of receipt that is recorded on the registration form by the Health Division.

4. A registrant shall notify the Health Division of any change in the information provided with the application for registration. The Health Division shall incorporate any such information into its records, but is not required to affirmatively seek to obtain current information from a registrant for incorporation in the Registry.

Sec. 6.5. A putative father who fails to register with the Registry in accordance with the provisions of section 6 of this act or who withdraws his registration pursuant to section 7 of this act:

1. Waives his right to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child which is commenced in this State;

2. Is not a parent whose consent must be obtained before the child may be adopted in accordance with the provisions of chapter 127 of NRS; and

3. May not allege in any proceeding brought pursuant to this chapter or chapter 127 of NRS that his failure to register with the Registry is excused because he did not have notice of the pregnancy. The fact that the putative father had sexual intercourse with the mother of the child shall be deemed to be notice to the putative father of the pregnancy.

Sec. 7. 1. Upon receipt of a written and notarized request of a registrant to withdraw his registration from the Registry, the Health Division shall:

(a) Remove from the Registry and destroy all information, whether tangible or intangible, pertaining to the registrant; and

(b) Refuse to disclose any information pertaining to the registrant or pertaining to the fact that the registrant registered with the Registry or requested the withdrawal of his registration.

2. A registrant who withdraws his registration pursuant to this section may not submit another registration form concerning the same child for whom he previously registered.

Sec. 8. 1. Except as otherwise provided in this section, all information contained in the Registry is confidential and must not be released to any person.

2. The Health Division shall search the Registry to determine whether a putative father has registered in the Registry at the request of:

(a) The Attorney General, a district attorney, an agency described in NRS 127.050 or any other person authorized to file a petition for the termination of parental rights pursuant to this chapter or an attorney acting

on behalf of such a person, if the request is made for the purpose of determining whether notice of a proceeding for the adoption of, or termination of parental rights regarding, a child must be given to a putative father;

(b) A court of competent jurisdiction or a person authorized to receive the information pursuant to an order of a court of competent jurisdiction;

(c) A person who submits a written request for the performance of the search accompanied by a notarized statement from the putative father authorizing the search; or

(d) The State, any political subdivision of the State and any agency of the State or of a political subdivision of the State that is responsible for establishing and enforcing obligations of child support, but the information released must not be used for any purpose other than establishing and enforcing obligations of child support.

3. After conducting a search of the Registry, if the Health Division determines that a person has registered as the putative father of the child, the Health Division shall:

(a) Provide the person or entity who requested the search pursuant to subsection 2 with a certified copy of the registration form submitted by the registrant which indicates the date and time of receipt of the registration form; and

(b) Notify the registrant by certified mail that:

(1) A search of the Registry was conducted pursuant to this section; and

(2) A copy of his registration form was provided to a person or entity who requested the search pursuant to subsection 2.

4. After conducting a search of the Registry, if the Health Division determines that a person has not registered as the putative father of the child, the Health Division shall provide the person or entity who requested the search pursuant to subsection 2 with a certified statement verifying that:

(a) A search of the Registry was conducted; and

(b) No person has registered as the putative father of the child.

5. Any person or entity who intentionally releases information from the Registry to another person or entity not authorized to receive the information pursuant to this section is guilty of a misdemeanor.

Sec. 9. 1. The Health Division shall develop a form to be used to register as a putative father with the Registry. The form must require the registrant to sign under penalty of perjury affirming that the information provided with the form is true and accurate to the best of the knowledge of the registrant.

2. The form developed by the Health Division must further state that:

(a) Timely registration entitles the registrant to be notified of a proceeding for adoption of the child or termination of parental rights pursuant to section 12 of this act.

(b) Registration does not commence a proceeding to establish paternity.

(c) Information disclosed on the form may be used against the registrant to establish paternity.

(d) Registration should also be completed in any other state where the conception or birth of the child occurred.

(e) The Health Division may assist a person to obtain information regarding a registry in another state.

(f) Services are available to establish paternity.

(g) Registration may be withdrawn pursuant to section 7 of this act.

Sec. 10. 1. The State Board of Health shall adopt regulations to carry out the provisions of sections 2 to 11, inclusive, of this act, which must include, without limitation, the fees to be charged pursuant to subsection 2 in an amount sufficient to defray the cost of carrying out the provisions of sections 2 to 11, inclusive, of this act.

2. The regulations adopted by the State Board of Health pursuant to subsection 1 must provide for a reasonable fee to:

(a) Conduct a search of the Registry; or

(b) Provide a certified copy of a registration form or a certified statement pursuant to section 8 of this act.

3. The State Board of Health shall not charge a governmental entity a fee described in subsection 2.

4. The State Board of Health shall not charge a fee for:

(a) Registering with the Registry; or

(b) Withdrawing a registration from the Registry.

5. All money received by the Health Division pursuant to subsection 2 must be deposited in the State General Fund.

6. The Administrator of the Health Division may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of sections 2 to 11, inclusive, of this act. Any money the Administrator receives pursuant to this subsection:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund;

(b) May only be used to carry out the provisions of sections 2 to 11, inclusive, of this act; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

Sec. 11. (Deleted by amendment.)

Sec. 12. 1. If the mother of a child relinquishes or proposes to relinquish for adoption a child who does not have:

(a) A presumed father pursuant to subsection 1 of NRS 126.051;

(b) A father whose relationship to the child has been determined by a court;

(c) A father as to whom the child is a legitimate child pursuant to chapter 126 of NRS, the prior law of this State or the law of another jurisdiction; or

(d) A father who can be identified in any other way,

➡ or if a child otherwise becomes the subject of an adoption proceeding, the Attorney General or a district attorney authorized to file a petition to terminate parental rights pursuant to this chapter, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, may file a summary petition to terminate parental rights pursuant to this section which, if granted, will terminate the parental rights of a father without notice or a hearing.

2. Before filing a summary petition pursuant to this section, the petitioner shall request a search of the Registry pursuant to section 8 of this act and send notice of the filing of a summary petition by certified mail to the address of any putative father identified in the Registry. The notice must include a statement in substantially the following form:

As a person who has registered with the Registry of Putative Fathers as the putative father of a child, any parental rights that you may have concerning the child will be subject to summary termination unless, within 30 days after the date on which this notice was mailed to you, you enter an appearance in or otherwise notify the court identified in the summary petition for termination of parental rights that you have attempted to establish parentage of the child.

3. If a putative father is known to the petitioner by means other than a search of the Registry, before filing a summary petition pursuant to this section, the petitioner shall exercise due diligence to find the putative father. If found, the petitioner shall notify the putative father by certified mail:

(a) Of the name of the birth mother and the date of birth or anticipated date of birth of the child;

(b) That he may be the father of the child;

(c) That the child is being placed for adoption; and

(d) That if he has any interest in establishing or asserting his parental rights, he must register with the Registry within 30 days after the birth of the child or within 30 days after the date on which notice is provided pursuant to this subsection, whichever occurs later, and that the failure to register with the Registry will result in the termination of his parental rights.

4. A summary petition to terminate parental rights must be verified, must be entitled "Summary Petition for Termination of Parental Rights" and must:

(a) Allege the facts necessary for a court to grant the petition;

(b) Contain the information set forth in NRS 128.050; and

(c) Be accompanied by an affidavit of the petitioner which states:

(1) The name of each putative father of the child, if known, including the name of each putative father of the child who is identified in the Registry;

(2) That notice was provided to each putative father in accordance with subsection 2 or 3; and

(3) That 30 days or more have passed since the date on which notice was provided to each putative father pursuant to subsection 2 or 3.

5. If notice of a summary petition is mailed to one or more putative fathers identified in the Registry pursuant to subsection 2, the petitioner may

request permission from the court to submit the petition, together with a proposed order, to the court for decision. Such a request must not be made sooner than 35 days after:

(a) The birth of the child; or
(b) The date on which notice was mailed to each putative father, if each putative father has failed to:

(1) Enter an appearance; or
(2) Otherwise notify the court of any attempt or desire to establish parentage of the child,

➡ whichever is later.

6. If a putative father cannot be found or if a putative father who received notification pursuant to subsection 3 does not register with the Registry within 30 days after the birth of the child or within 30 days after the date on which notice was provided pursuant to subsection 3, whichever occurs later, the petitioner may request permission from the court to submit the petition, together with a proposed order, to the court for decision. Such a request must not be submitted sooner than 35 days after:

(a) The birth of the child; or
(b) The date on which notice was provided pursuant to subsection 3,
➡ whichever is later.

7. A putative father who fails to register with the Registry pursuant to section 6 of this act shall be deemed to have waived his right and opportunity to receive further notice, other than the notice provided in this section, of proceedings for the summary termination of his parental rights.

8. A court may grant a summary petition filed pursuant to this section if the court finds that:

(a) The petitioner has satisfied the provisions of this section; and
(b) Granting of the petition is in the best interests of the child.

9. As used in this section, "agency" means an agency described in NRS 127.050.

Sec. 13. NRS 128.010 is hereby amended to read as follows:

128.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 128.011 to 128.018, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 14. NRS 128.016 is hereby amended to read as follows:

128.016 "Putative father" means a person who ~~is or is~~ :

1. Is alleged or reputed to be the father of an illegitimate child [?];
2. Is not the presumed father of a child pursuant to NRS 126.051;
3. Has not acknowledged paternity of the child pursuant to NRS 126.053;
and
4. Has not been determined to have a parent and child relationship with the child by:

(a) A court of competent jurisdiction pursuant to the laws of this State;
(b) A court of competent jurisdiction in another state;

(c) *An administrative agency or quasi-judicial entity pursuant to NRS 425.382 to 425.3852, inclusive; or*

(d) *An administrative agency or quasi-judicial entity in another state that is authorized to establish or to determine parentage or the existence of a parent and child relationship.*

Sec. 15. NRS 128.050 is hereby amended to read as follows:

128.050 1. ~~[The]~~ *Except as otherwise provided in section 12 of this act,* proceedings must be entitled, "In the matter of the parental rights as to, a minor."

2. A petition must be verified and may be upon information and belief. It must set forth plainly:

- (a) The facts which bring the child within the purview of this chapter.
- (b) The name, age and residence of the child.
- (c) The names and residences of the parents of the child.
- (d) The name and residence of the person or persons having physical custody or control of the child.
- (e) The name and residence of the child's legal guardian, if there is one.
- (f) The name and residence of the child's nearest known relative residing within the State, if no parent or guardian can be found.
- (g) Whether the child is known to be an Indian child.

3. If any of the facts required by subsection 2 are not known by the petitioner, the petition must so state.

4. If the petitioner is a mother filing with respect to her unborn child, the petition must so state and must contain the name and residence of the father or putative father, if known.

5. If the petitioner or the child is receiving public assistance, the petition must so state.

Sec. 16. NRS 128.060 is hereby amended to read as follows:

128.060 1. ~~[After]~~ *Except as otherwise provided in section 12 of this act,* after a petition has been filed, unless the party or parties to be served voluntarily appear and consent to the hearing, the court shall direct the clerk to issue a notice, reciting briefly the substance of the petition and stating the date set for the hearing thereof, and requiring the person served therewith to appear before the court at the time and place if that person desires to oppose the petition.

2. The following persons must be personally served with the notice:

- (a) The father or mother of the minor person, if residing within this State, and if his or her place of residence is known to the petitioner, or, if there is no parent so residing, or if the place of residence of the father or mother is not known to the petitioner, then the nearest known relative of that person, if there is any residing within the State, and if his or her residence and relationship are known to the petitioner; and
- (b) The minor's legal custodian or guardian, if residing within this State and if his or her place of residence is known to the petitioner.

3. If the petitioner or the child is receiving public assistance, the petitioner shall mail a copy of the notice of hearing and a copy of the petition to the Chief of the Child Enforcement Program of the Division of Welfare and Supportive Services of the Department of Health and Human Services by registered or certified mail return receipt requested at least 45 days before the hearing.

Sec. 17. NRS 128.070 is hereby amended to read as follows:

128.070 1. ~~When~~ *Except as otherwise provided in subsection 6, when* the father or mother of a minor child or the child's legal custodian or guardian resides out of the State, has departed from the State, or cannot, after due diligence, be found within the State, or conceals himself or herself to avoid the service of the notice of hearing, and the fact appears, by affidavit, to the satisfaction of the court thereof, and it appears, either by affidavit or by a verified petition on file, that the named father or mother or custodian or guardian is a necessary or proper party to the proceedings, the court may grant an order that the service be made by the publication of the notice of hearing. When the affidavit is based on the fact that the father or mother or custodian or guardian resides out of the State, and his or her present address is unknown, it is a sufficient showing of that fact if the affiant states generally in the affidavit that:

(a) At a previous time the person resided out of this State in a certain place (naming the place and stating the latest date known to the affiant when the person so resided there);

(b) That place is the last place in which the person resided to the knowledge of the affiant;

(c) The person no longer resides at that place;

(d) The affiant does not know the present place of residence of the person or where the person can be found; and

(e) The affiant does not know and has never been informed and has no reason to believe that the person now resides in this State.

➔ In such case, it shall be presumed that the person still resides and remains out of the State, and the affidavit shall be deemed to be a sufficient showing of due diligence to find the father or mother or custodian or guardian.

2. The order must direct the publication to be made in a newspaper, to be designated by the court, for a period of 4 weeks, and at least once a week during that time. In case of publication, where the residence of a nonresident or absent father or mother or custodian or guardian is known, the court shall also direct a copy of the notice of hearing and petition to be deposited in the post office, directed to the person to be served at his or her place of residence. When publication is ordered, personal service of a copy of the notice of hearing and petition, out of the State, is equivalent to completed service by publication and deposit in the post office, and the person so served has 20 days after the service to appear and answer or otherwise plead. The service of the notice of hearing shall be deemed complete in cases of publication at the expiration of 4 weeks from the first publication, and in

cases when a deposit of a copy of the notice of hearing and petition in the post office is also required, at the expiration of 4 weeks from the deposit.

3. Personal service outside the State upon a father or mother over the age of 18 years or upon the minor's legal custodian or guardian may be made in any action where the person served is a resident of this State. When the facts appear, by affidavit, to the satisfaction of the court, and it appears, either by affidavit or by a verified petition on file, that the person in respect to whom the service is to be made is a necessary or proper party to the proceedings, the court may grant an order that the service be made by personal service outside the State. The service must be made by delivering a copy of the notice of hearing together with a copy of the petition in person to the person served. The methods of service are cumulative, and may be utilized with, after or independently of other methods of service.

4. Whenever personal service cannot be made, the court may require, before ordering service by publication or by publication and mailing, such further and additional search to determine the whereabouts of the person to be served as may be warranted by the facts stated in the affidavit of the petitioner to the end that actual notice be given whenever possible.

5. If one or both of the parents of the minor is unknown, or if the name of either or both of the parents of the minor is uncertain, then those facts must be set forth in the affidavit and the court shall order the notice to be directed and addressed to either the father or the mother of the person, and to all persons claiming to be the father or mother of the person. The notice, after the caption, must be addressed substantially as follows: "To the father and mother of the above-named person, and to all persons claiming to be the father or mother of that person."

6. *The provisions of this section do not apply to a summary petition for termination of parental rights pursuant to section 12 of this act.*

Sec. 18. NRS 128.080 is hereby amended to read as follows:

128.080 The notice *required pursuant to NRS 128.060 and 128.070* must be in substantially the following form:

In the Judicial District Court of the State of Nevada,
in and for the County of
In the matter of parental rights
as to, a minor.

Notice

To, the father or, the mother of the above-named person; or, to the father and mother of the above-named person, and to all persons claiming to be the father or mother of this person; or, to, related to the above-named minor as; and, to, the legal custodian or guardian of the above-named minor:

You are hereby notified that there has been filed in the above-entitled court a petition praying for the termination of parental rights over the above-named minor person, and that the petition has been set for hearing before this court,

at the courtroom thereof, at, in the County of,
on the day of the month of of the year at..... o'clock
.....m., at which time and place you are required to be present if you desire
to oppose the petition.

Dated (month) (day) (year)

.....
Clerk of Court

(SEAL)

By

Deputy

Sec. 19. NRS 128.085 is hereby amended to read as follows:

128.085 ~~[When]~~ *Except as otherwise provided in section 12 of this act:*

1. *If the mother of an unborn child files a petition for termination of the father's parental rights, the father or putative father, if known, ~~[shall]~~ must be served with notice of the hearing in the manner provided for in NRS 128.060, 128.070 and 128.080.*

2. *The hearing ~~[shall]~~ must not be held until the birth of the child or 6 months after the filing of the petition, whichever is later.*

Sec. 20. NRS 128.090 is hereby amended to read as follows:

128.090 1. ~~[At]~~ *Except in the case of a summary petition for termination of parental rights filed pursuant to section 12 of this act, at the time stated in the notice, or at the earliest time thereafter to which the hearing may be postponed, the court shall proceed to hear the petition.*

2. *The proceedings are civil in nature and are governed by the Nevada Rules of Civil Procedure. The court shall in all cases require the petitioner to establish the facts by clear and convincing evidence and shall give full and careful consideration to all of the evidence presented, with regard to the rights and claims of the parent of the child and to any and all ties of blood or affection, but with a dominant purpose of serving the best interests of the child.*

3. *Information contained in a report filed pursuant to NRS 432.0999 to 432.130, inclusive, or chapter 432B of NRS may not be excluded from the proceeding by the invoking of any privilege.*

4. *In the event of postponement, all persons served, who are not present or represented in court at the time of the postponement, must be notified thereof in the manner provided by the Nevada Rules of Civil Procedure.*

5. *Any hearing held pursuant to this section must be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court determines that holding such a hearing in open court will not be detrimental to the child.*

Sec. 21. NRS 128.110 is hereby amended to read as follows:

128.110 1. *Whenever the ~~[procedure]~~ procedures described in this chapter ~~[has]~~ have been followed, and upon finding grounds for the termination of parental rights pursuant to NRS 128.105 at a hearing upon the petition ~~[.]~~ or without a hearing in the case of a summary petition for*

termination of parental rights filed pursuant to section 12 of this act, the court shall make a written order, signed by the judge presiding in the court, judicially depriving the parent or parents of the custody and control of, and terminating the parental rights of the parent or parents with respect to the child, and declaring the child to be free from such custody or control, and placing the custody and control of the child in some person or agency qualified by the laws of this State to provide services and care to children, or to receive any children for placement. The termination of parental rights pursuant to this section *or section 12 of this act* does not terminate the right of the child to inherit from his or her parent or parents, except that the right to inherit terminates if the child is adopted as provided in NRS 127.160.

2. If the child is placed in the custody and control of a person or agency qualified by the laws of this State to receive children for placement, the person or agency, in seeking to place the child:

(a) May give preference to the placement of the child with any person related within the fifth degree of consanguinity to the child whom the person or agency finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(b) Shall, if practicable, give preference to the placement of the child together with his or her siblings.

➡ Any search for a relative with whom to place a child pursuant to this subsection must be completed within 1 year after the initial placement of the child outside of his or her home.

Sec. 22. NRS 128.120 is hereby amended to read as follows:

128.120 Any order made and entered by the court under the provisions of NRS 128.110 *or section 12 of this act* is conclusive and binding upon the person declared to be free from the custody and control of his or her parent or parents, and upon all other persons who have been served with notice by publication or otherwise, as provided by this chapter. After the making of the order, except as otherwise provided in NRS 128.190, the court has no power to set aside, change or modify it, but nothing in this chapter impairs the right of appeal.

Sec. 23. NRS 128.150 is hereby amended to read as follows:

128.150 1. If a mother relinquishes or proposes to relinquish for adoption a child who has:

(a) A presumed father pursuant to NRS 126.051;

(b) A father whose relationship to the child has been determined by a court; or

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction,

➡ and the father has not consented to the adoption of the child or relinquished the child for adoption, a proceeding must be brought pursuant to this chapter and a determination made of whether a parent and child relationship exists and, if so, if it should be terminated. *Such a determination may not be made in the manner set forth in section 12 of this act.*

2. ~~[If a mother relinquishes or proposes to relinquish for adoption a child who does not have:~~

~~(a) A presumed father pursuant to NRS 126.051;~~

~~(b) A father whose relationship to the child has been determined by a court;~~

~~(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction; or~~

~~(d) A father who can be identified in any other way;~~

~~→ or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.~~

3. ~~In an effort to identify and protect the interests of the natural father, the court which is conducting a proceeding pursuant to this chapter shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following:~~

~~(a) Whether the mother was married at the time of conception of the child or at any time thereafter.~~

~~(b) Whether the mother was cohabiting with a man at the time of conception or birth of the child.~~

~~(c) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.~~

~~(d) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.~~

4. ~~If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 6 or with this chapter, as applicable. If any of them fails to appear or, if appearing, fails to claim custodial rights, such failure constitutes abandonment of the child. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.~~

5. ~~If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child. Subject to the disposition of any appeal, upon the expiration of 6 months after an order terminating parental rights is issued under this subsection, or this chapter, the order cannot be questioned by any person in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice or lack of jurisdiction of the parties or of the subject matter.~~

6. ~~Notice]~~ *Except in the case of a summary petition for termination of parental rights filed pursuant to section 12 of this act, notice of the*

proceeding must be given to every person identified as the natural father or a ~~[possible]~~ *person presumed to be the* natural father in the manner provided by law and the Nevada Rules of Civil Procedure for the service of process in a civil action, or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard.

Sec. 23.5. The State Board of Health shall:

1. To the extent that money is available for that purpose, adopt the regulations necessary to carry out the provisions of this act as soon as practicable.

2. Carry out the provisions of sections 1 to 9, inclusive, of this act, other than the adoption of regulations, as soon as practicable after receiving money through gifts, grants, donations or contributions or other money made available to cover the initial costs necessary to carry out those provisions.

Sec. 24. The amendatory provisions of this act apply with respect to any child who is born on or after ~~[July 1, 2014]~~ the date on which the State Board of Health determines that the Registry of Putative Fathers established pursuant to section 5 of this act is operational and the Health Division of the Department of Health and Human Services has established a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry as required pursuant to section 5 of this act.

Sec. 25. ~~[This act becomes effective:]~~

1. ~~[Upon]~~ This section and sections 1 to 5, inclusive, 9, 10, 11, 23.5 and 24 of this act become effective upon passage and approval. ~~[for the purpose of adopting regulations necessary to carry out this act; and~~

~~2. On July 1, 2014, for all other purposes.]~~

2. Sections 6 to 8, inclusive, and 12 to 23, inclusive, of this act become effective on the date on which the State Board of Health determines that the Registry of Putative Fathers established pursuant to section 5 of this act is operational and the Health Division of the Department of Health and Human Services has established a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry as required pursuant to section 5 of this act.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 792 to Senate Bill No. 113 does several things. Most importantly, it adjusts the responsibilities of the Health Division of the Department of Health and Human Services in the implementation of the Registry of Putative Fathers. The bill will allow the implementation to happen with little or no cost.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bills Nos. 50, 189, 236, be taken from the General File and placed at the bottom of the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 20.

The following Assembly amendment was read:

Amendment No. 677.

"SUMMARY—Revises provisions governing the submission of certain publications to the State Publications Distribution Center. (BDR 33-305)"

"AN ACT relating to governmental publications; revising provisions governing the submission of certain publications to the State Publications Distribution Center by certain state agencies and local governments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the State Publications Distribution Center within the State Library and Archives. (NRS 378.170) Under existing law, state agencies and local governments, with certain exceptions, are required to deposit paper copies of certain publications, upon release, with the Center for distribution to certain libraries throughout the State. If such a state agency or local government releases a publication in an electronic format or medium, the state agency or local government is required to notify the Center of the release and provide the Center with access to the publication. (NRS 378.180) A "publication" is defined to include any information in any format or medium that is: (1) produced pursuant to the authority or at the expense of a state agency or local government; (2) required by law to be distributed by a state agency or local government; or (3) distributed publicly by a state agency or local government outside that state agency or local government. (NRS 378.160)

Section 1 of this bill excludes from the definition of "publication" certain records of a local government which have been scheduled for disposition or retention.

Section 3 of this bill reduces the number of paper copies of a publication that a state agency or local government is required to deposit with the Center ~~from 12 copies to 10 copies. Section 1~~ Unless a publication is available only in paper form, section 3 ~~[also authorizes]~~ requires a state agency or local government to provide the Center with an electronic version of the publication in lieu of depositing paper copies. If the publication is available only in paper form at the time copies are deposited with the Center, but is later released in an electronic format or medium, section 3 also requires the state agency or local government to provide the Center with an electronic version of the publication ~~[instead of notice and access to the electronic publication.]~~ when it becomes available. Finally, section 3 prescribes requirements for the submission of an electronic version of a publication to the Center by a state agency or local government ~~[and section 2]~~ Section 2 of this bill requires the State Library and Archives Administrator to adopt regulations prescribing the procedures for submitting an electronic version of a publication to the Center.

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

Section 1. NRS 378.160 is hereby amended to read as follows:

378.160 As used in NRS 378.150 to 378.210, inclusive:

1. "Center" means the State Publications Distribution Center created by NRS 378.170.

2. "Depository library" means a library with which the Center has entered into an agreement pursuant to NRS 378.190.

3. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes the Nevada Rural Housing Authority.

4. "Publication" includes any information in any format or medium that is produced pursuant to the authority of or at the total or partial expense of a state agency or local government, is required by law to be distributed by a state agency or local government, or is distributed publicly by a state agency or local government outside that state agency or local government. The term does not include:

(a) Nevada Revised Statutes with annotations;

(b) Nevada Reports;

(c) Bound volumes of the Statutes of Nevada;

(d) Items published by the University of Nevada Press and other information disseminated by the Nevada System of Higher Education which is not designed for public distribution; or

(e) Official state records scheduled for retention and disposition pursuant to NRS 239.080.

(f) *Records of a local government which have been scheduled for disposition pursuant to NRS 239.124 or retention pursuant to NRS 239.125.*

5. "State agency" includes the Legislature, constitutional officers or any department, division, bureau, board, commission or agency of the State of Nevada.

Sec. 2. NRS 378.170 is hereby amended to read as follows:

378.170 1. There is hereby created within the State Library and Archives a State Publications Distribution Center.

2. The State Library and Archives Administrator ~~[may make]~~ :

(a) *Except as otherwise provided in paragraph (b), may adopt* such regulations as may be necessary to carry out the purposes of the Center.

(b) *Shall adopt regulations prescribing the procedures for submitting an electronic version of a publication to the Center pursuant to NRS 378.180.*

Sec. 3. NRS 378.180 is hereby amended to read as follows:

378.180 1. ~~Every~~ *Except as otherwise provided in this subsection, every* state agency shall:

~~[(a) For each publication of the state agency that was published, printed or copied on paper by the state agency itself or by a private printer, deposit with the Center, upon release,] [12] 10 copies of the publication] [-] for, upon release of each of its publications, provide the Center with an electronic version of the publication.~~

~~[(b) For each publication printed on paper for or on behalf of the state agency by the State Printing Office:~~

~~(1) In addition to the number of copies otherwise required by the state agency, request the State Printing Office to print] [12] 10 copies of that publication; and~~

~~(2) Deposit or request the State Printing Office to deposit those additional copies] If a publication is available only in paper form, the state agency shall deposit 10 copies of the publication with the Center.~~

2. ~~Every~~ *Except as otherwise provided in this subsection, every* local government shall, upon release ~~[-] of each of its publications, [deposit with the Center at least six copies of] [each of its publications.] [the publication or]~~ *provide the Center with an electronic version of the publication. If a publication is available only in paper form, the local government shall deposit six copies of the publication with the Center.*

3. ~~Every~~ *If a publication is available only in paper form at the time copies are deposited with the Center pursuant to subsection 1 or 2, every* state agency and local government shall, upon release of ~~the~~ *the* publication in an electronic format or medium, ~~[notify the Center of such release and] provide the Center with [access to] an electronic version of the publication.~~

4. *If a state agency or local government provides an electronic version of a publication to the Center pursuant to this section, the state agency or local government shall:*

(a) Include, in a conspicuous location at or near the beginning of the publication, the date on which the publication was initially released by the state agency or local government; and

(b) Submit the electronic version of the publication in accordance with regulations adopted by the State Library and Archives Administrator pursuant to NRS 378.170.

Sec. 4. This act becomes effective upon passage and approval.

Senator Woodhouse moved that the Senate concur in the Assembly Amendment No. 677 to Senate Bill No. 20.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 185.

The following Assembly amendment was read:

Amendment No. 791.

"SUMMARY—Revises the limitation on the principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects. (BDR S-914)"

"AN ACT relating to the Nevada System of Higher Education; increasing the total principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects at the University of Nevada, Reno; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to issue bonds and other securities to finance certain projects at the University of Nevada, Reno, in a total principal amount not exceeding \$348,360,000. This bill increases the authorized amount of such bonds to \$427,715,000.

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

Section 1. Section 5 of chapter 501, Statutes of Nevada 1991, as last amended by chapter 179, Statutes of Nevada 2011, at page 817, is hereby amended to read as follows:

Sec. 5. 1. The board, on behalf and in the name of the university, is authorized by this act, as supplemented by the provisions of the University Securities Law:

(a) To finance the project by the issuance of bonds and other securities of the university in a total principal amount not exceeding ~~[\$348,360,000]~~ \$427,715,000 for *the construction of* facilities at the University of Nevada, Reno, and in a total principal amount not exceeding \$422,155,000 for facilities at the University of Nevada, Las Vegas, \$35,000,000 of which may be used for the construction, other acquisition and improvement of a dental school and other structures and clinics associated with the dental school;

(b) To issue such bonds and other securities in connection with the project in one series or more at any time or from time to time on or before January 1, 2029, as the board may determine, and consisting of special obligations of the university payable from the net pledged revenues authorized by this act and possibly subsequently other net pledged revenues, secured by a pledge thereof and a lien thereon, subject to existing contractual limitations, and subject to the limitation in paragraph (a);

(c) To employ legal, fiscal and other expert services and to defray the costs thereof with any money available therefor, including, proceeds of securities authorized by this act; and

(d) To exercise the incidental powers provided in the University Securities Law in connection with the powers authorized by this act, except as otherwise expressly provided in this act.

2. If the board determines to sell the bonds authorized by subsection 1 at a discount from their face amount, the principal amount of bonds which the board is authorized to issue provided in subsection 1 is increased by an amount equal to the discount at which the bonds are sold.

3. This act does not limit the board in funding, refunding or reissuing any securities of the university or the board at any time as provided in the University Securities Law.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Smith moved that the Senate not concur in the Assembly Amendment No. 791 to Senate Bill No. 185.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 73, 78, 101, 133, 134, 143, 167, 178, 180, 181, 206, 233; Senate Joint Resolution No. 14; Assembly Bills Nos. 2, 11, 17, 19, 23, 25, 29, 30, 39, 40, 55, 59, 61, 65, 72, 79, 82, 89, 90, 93, 94, 102, 109, 110, 117, 120, 128, 132, 144, 154, 155, 158, 168, 173, 174, 182, 183, 185, 194, 199, 217, 221, 231, 244, 249, 255, 259, 266, 277, 281, 282, 307, 310, 322.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Josh Hess; and also, the students, chaperone and teachers from Truckee Meadows Community College High School; students: Sebastian Aleman, Alex Armitage, SaraJane Barnard, Haley Blonsley, Chelsea Bosco, Janea Campbell, Kaitlin Cates, Lizzie Cates, Quinn Chapman, Shelby Cook, Christiann Crowder, Evan Cunningham, Koraleigh Ebbs, Serena Evans, Megan Geisinger, Ian Gibson, Sarah Goode, Kaelie Huff, Tara Humphreys, Ashley Jackson, Carly Johnson, Kim Kedrowski, Chloe Kelly, Connor Kelly, Tiffany Klaich, J. J. Lake, Kenneth Lester, Karen Mendoza, Carlie Meyers, Diana Morales Herrera, Brenda Moreno, Cheyanne Neuffer, Samantha Noose, Karl Nordland, Colby Noyes, Emily O'Brien, Gienie Mae Oquendo, Selena Padilla, Sonja Petersen, Kyra Pfennig, Keegan Phillips, Laine Potter, Faith Rucker, Catrina Ryan, Anita Savell, Amanda Scott, Crystal Sepulveda, Jakob Shepherd, Jordyn Sliter, Tori Speicher, Elysia Stone, Frankie Talbot, Tehman Tariq, Tayllor Thompson, Olivia Thrasher, Brylee Vanna and Kaitlyn West; chaperone: Melanie Mahan; and teachers: Launie Garnder and Carlos Hatfield.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Diana Denis Gale; and also to the John J. McDonald family.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Arilene Pelayo.

On request of Senator Jones, the privilege of the Floor of the Senate Chamber for this day was extended to Colonel Bill Badger, Sallie Badger, Carol Gaxiola Daniel Hernandez, Neil Heslin, Tracy Kelly, Patricia Maisch, Sue Meuschke, Gilles Rousseau and Dr. Ronald Stone.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Astrid Perez and Silvia Villanueva.

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Mansi Shah.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to Madeline Burak.

On request of Senator Spearman, the privilege of the Floor of the Senate Chamber for this day was extended to Donna Spearman-Davis.

Senator Denis moved that the Senate adjourn until Thursday, May 23, 2013, at 11:30 a.m.

Motion carried.

Senate adjourned at 5:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate