

Amendment No. 458

Senate Amendment to Senate Bill No. 477	(BDR 22-146)
<b>Proposed by:</b> Senate Committee on Government Affairs	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

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

EWR/JWP



Date: 4/20/2017

S.B. No. 477—Enacts provisions relating to residential establishments for persons with disabilities. (BDR 22-146)





## SENATE BILL NO. 477—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 27, 2017

Referred to Committee on Government Affairs

SUMMARY—Enacts provisions relating to residential establishments for persons with disabilities. (BDR 22-146)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

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

AN ACT relating to persons with disabilities; prescribing certain requirements relating to the zoning of certain facilities that provide residential care; requiring certain residential facilities for groups to be equipped with a **residential** fire sprinkler system; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the governing bodies of cities and counties to regulate and restrict the improvement of land and to control the location and soundness of structures. (NRS 278.020) **Section 7** of this bill requires that in any ordinance adopted by a city or county, the definition of the term "single-family residence" must include: (1) a residential facility for groups in which ~~10 or~~ **more than 2 and fewer than 11** persons with disabilities reside with house parents; (2) a home for individual residential care; and (3) a halfway house for recovering alcohol and drug abusers. ~~It~~ **in which fewer than 11 persons reside.**

~~Section 5 of this bill defines the term "residential establishment" to mean: (1) a home for individual residential care in a county whose population is 100,000 or more; (2) a halfway house for recovering alcohol and drug abusers; or (3) a residential facility for groups. Section 7 prohibits the governing body of a city or county from refusing to issue a special use permit to a residential establishment that meets local public health and safety standards unless the residential establishment lacks a required license or certification. Section 8 of this bill requires the governing body of a city or county, as a prerequisite to the approval or issuance of any rezoning, zone variance or special use permit that is necessary to operate a residential establishment, to ensure that the residential establishment has obtained all required licenses and certifications. Section 8 also authorizes the governing body to provisionally approve or issue a rezoning, zone variance or special use permit that is necessary to operate a residential establishment pending the issuance of a required license or certification.~~

Existing law prescribes certain requirements for various types of residential and health care facilities. (NRS 449.181-449.204) **Section 16** of this bill requires a residential facility for groups to be equipped with a **residential** fire sprinkler system ~~that meets certain requirements prescribed by the National Fire Protection Association~~ if the facility has ~~two~~ **three** or more residents who would have difficulty perceiving danger or moving to safety in the event of a fire.

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Sections 2-4, 6, 9-15 and 17-20 of this bill make conforming changes.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Halfway house for recovering alcohol and drug abusers” has the meaning ascribed to it in NRS 449.008.*

Sec. 4. *“Home for individual residential care” has the meaning ascribed to it in NRS 449.0105.*

Sec. 5. ~~“Residential establishment” means a home for individual residential care in a county whose population is 100,000 or more, a halfway house for recovering alcohol and drug abusers or a residential facility for groups.~~ (Deleted by amendment.)

Sec. 6. *“Residential facility for groups” has the meaning ascribed to it in NRS 449.017.*

Sec. 7. 1. *In any ordinance adopted by a city or county, the definition of “single-family residence” must include, without limitation, a:*

(a) *Residential facility for groups in which ~~10 or~~ more than 2 and fewer than 11 unrelated persons with disabilities reside with:*

(1) *House parents or guardians who need not be related to any of the persons with disabilities; and*

(2) *If applicable, additional persons who are related to the house parents or guardians within the third degree of consanguinity or affinity.*

(b) *Home for individual residential care.*

(c) *Halfway house for recovering alcohol and drug abusers ~~in which fewer than 11 persons reside.~~*

2. *The provisions of subsection 1 do not prohibit a definition of “single-family residence” that allows more persons to reside in a residential facility for groups or the regulation of homes that are operated on a commercial basis. For the purposes of this subsection, a residential facility for groups, a halfway house for recovering alcohol and drug abusers or a home for individual residential care shall not be deemed to be a home that is operated on a commercial basis for any purpose relating to ~~building codes or~~ zoning.*

3. ~~Except as otherwise provided in section 8 of this act, the governing body of a city or county shall not refuse to issue a special use permit to a residential establishment that meets local public health and safety standards.~~

~~4.~~ *As used in this section, “person with a disability” means a person:*

(a) *With a physical or mental impairment that substantially limits one or more of the major life activities of the person;*

(b) *With a record of such an impairment; or*

(c) *Who is regarded as having such an impairment.*

Sec. 8. ~~1. Except as otherwise provided in subsection 2, as a prerequisite to the approval or issuance of any rezoning, zone variance or special use permit that is necessary to operate a residential establishment, the governing body of a city or county shall ensure that the residential establishment or the owner or~~

~~operator thereof has obtained any license or certification that is required by federal, state or local authorities.~~

~~2. If a residential establishment or the owner or operator thereof has not obtained any required license or certification, the governing body of a county or city or another entity designated to act on behalf of the governing body may conditionally or provisionally approve or issue any rezoning, zone variance or special use permit that is necessary to operate the residential establishment pending the issuance of the license or certification.] (Deleted by amendment.)~~

Sec. 9. ~~NRS 278.010 is hereby amended to read as follows:~~

~~278.010 As used in NRS 278.010 to 278.630, inclusive, and sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 278.0103 to 278.0105, inclusive, and sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 10. NRS 278.0235 is hereby amended to read as follows:

278.0235 No action or proceeding may be commenced for the purpose of seeking judicial relief or review from or with respect to any final action, decision or order of any governing body, commission or board authorized by NRS 278.010 to 278.630, inclusive, *and sections 2 to 8, inclusive, of this act*, unless the action or proceeding is commenced within 25 days after the date of filing of notice of the final action, decision or order with the clerk or secretary of the governing body, commission or board.

Sec. 11. NRS 278.02788 is hereby amended to read as follows:

278.02788 1. If a city has a sphere of influence that is designated in the comprehensive regional plan, the city shall adopt a master plan concerning the territory within the sphere of influence. The master plan and any ordinance required by the master plan must be consistent with the comprehensive regional plan. After adoption and certification of a master plan concerning the territory within the sphere of influence and after adopting the ordinances required by the master plan, if any, the city may exercise any power conferred pursuant to NRS 278.010 to 278.630, inclusive, *and sections 2 to 8, inclusive, of this act* within its sphere of influence.

2. If the comprehensive regional plan designates that all or part of the sphere of influence of a city is a joint planning area, the master plan and any ordinance adopted by the city pursuant to subsection 1 must be consistent with the master plan that is adopted for the joint planning area.

3. Before certification of the master plan for the sphere of influence pursuant to NRS 278.028, any action taken by the county pursuant to NRS 278.010 to 278.630, inclusive, *and sections 2 to 8, inclusive, of this act* within the sphere of influence of a city must be consistent with the comprehensive regional plan.

4. A person, county or city that is represented on the governing board and is aggrieved by a final determination of the county or, after the certification of the master plan for a sphere of influence, is aggrieved by a final determination of the city, concerning zoning, a subdivision map, a parcel map or the use of land within the sphere of influence may appeal the decision to the regional planning commission within 30 days after the determination. A person, county or city that is aggrieved by the determination of the regional planning commission may appeal the decision to the governing board within 30 days after the determination. A person, county or city that is aggrieved by the determination of the governing board may seek judicial review of the decision within 25 days after the determination.

Sec. 12. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in this section and NRS 278.150 and 278.170, the master plan, with the accompanying charts, drawings, diagrams,

1 schedules and reports, may include such of the following elements or portions  
2 thereof as are appropriate to the city, county or region, and as may be made the  
3 basis for the physical development thereof:

4 (a) A conservation element, which must include:

5 (1) A conservation plan for the conservation, development and utilization  
6 of natural resources, including, without limitation, water and its hydraulic force,  
7 underground water, water supply, solar or wind energy, forests, soils, rivers and  
8 other waters, harbors, fisheries, wildlife, minerals and other natural resources. The  
9 conservation plan must also cover the reclamation of land and waters, flood control,  
10 prevention and control of the pollution of streams and other waters, regulation of  
11 the use of land in stream channels and other areas required for the accomplishment  
12 of the conservation plan, prevention, control and correction of the erosion of soils  
13 through proper clearing, grading and landscaping, beaches and shores, and  
14 protection of watersheds. The conservation plan must also indicate the maximum  
15 tolerable level of air pollution.

16 (2) A solid waste disposal plan showing general plans for the disposal of  
17 solid waste.

18 (b) A historic preservation element, which must include:

19 (1) A historic neighborhood preservation plan which:

20 (I) Must include, without limitation, a plan to inventory historic  
21 neighborhoods and a statement of goals and methods to encourage the preservation  
22 of historic neighborhoods.

23 (II) May include, without limitation, the creation of a commission to  
24 monitor and promote the preservation of historic neighborhoods.

25 (2) A historical properties preservation plan setting forth an inventory of  
26 significant historical, archaeological, paleontological and architectural properties as  
27 defined by a city, county or region, and a statement of methods to encourage the  
28 preservation of those properties.

29 (c) A housing element, which must include, without limitation:

30 (1) An inventory of housing conditions and needs, and plans and  
31 procedures for improving housing standards and providing adequate housing to  
32 individuals and families in the community, regardless of income level.

33 (2) An inventory of existing affordable housing in the community,  
34 including, without limitation, housing that is available to rent or own, housing that  
35 is subsidized either directly or indirectly by this State, an agency or political  
36 subdivision of this State, or the Federal Government or an agency of the Federal  
37 Government, and housing that is accessible to persons with disabilities.

38 (3) An analysis of projected growth and the demographic characteristics of  
39 the community.

40 (4) A determination of the present and prospective need for affordable  
41 housing in the community.

42 (5) An analysis of any impediments to the development of affordable  
43 housing and the development of policies to mitigate those impediments.

44 (6) An analysis of the characteristics of the land that is suitable for  
45 residential development. The analysis must include, without limitation:

46 (I) A determination of whether the existing infrastructure is sufficient  
47 to sustain the current needs and projected growth of the community; and

48 (II) An inventory of available parcels that are suitable for residential  
49 development and any zoning, environmental and other land-use planning  
50 restrictions that affect such parcels.

51 (7) An analysis of the needs and appropriate methods for the construction  
52 of affordable housing or the conversion or rehabilitation of existing housing to  
53 affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(d) A land use element, which must include:

(1) Provisions concerning community design, including standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(2) A land use plan, including an inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(I) Must, if applicable, address mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts. The land use plan must also, if applicable, address the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(II) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(3) In any county whose population is 700,000 or more, a rural neighborhoods preservation plan showing general plans to preserve the character and density of rural neighborhoods.

(e) A public facilities and services element, which must include:

(1) An economic plan showing recommended schedules for the allocation and expenditure of public money to provide for the economical and timely execution of the various components of the plan.

(2) A population plan setting forth an estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(3) An aboveground utility plan that shows corridors designated for the construction of aboveground utilities and complies with the provisions of NRS 278.165.

(4) Provisions concerning public buildings showing the locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(5) Provisions concerning public services and facilities showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145. If a public utility which provides electric service notifies the planning commission that a new transmission line or substation will be required to support the master plan, those facilities must be included in the master plan. The utility is not required to obtain an easement for any such transmission line as a prerequisite to the inclusion of the transmission line in the master plan.

(6) A school facilities plan showing the general locations of current and future school facilities based upon information furnished by the appropriate county school district.

(f) A recreation and open space element, which must include a recreation plan showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(g) A safety element, which must include:

(1) In any county whose population is 700,000 or more, a safety plan identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The safety plan may set forth policies for avoiding or minimizing the risks from those hazards.

(2) A seismic safety plan consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(h) A transportation element, which must include:

(1) A streets and highways plan showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(2) A transit plan showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(3) A transportation plan showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The transportation plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other elements as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, *and sections 2 to 8, inclusive, of this act* prohibits the preparation and adoption of any such element as a part of the master plan.

**Sec. 13.** NRS 119.128 is hereby amended to read as follows:

119.128 An exemption pursuant to this chapter is not an exemption from the provisions of NRS 278.010 to 278.630, inclusive ~~††~~, *and sections 2 to 8, inclusive, of this act.*

**Sec. 14.** NRS 119.340 is hereby amended to read as follows:

119.340 The provisions of this chapter are in addition to and not a substitute for NRS 278.010 to 278.630, inclusive ~~††~~, *and sections 2 to 8, inclusive, of this act.*

**Sec. 15.** NRS 270.180 is hereby amended to read as follows:

270.180 NRS 270.160 and 270.170 are intended to supplement and not to supersede the existing laws relating to the vacation of city and town plats and do not apply to land divided pursuant to NRS 278.010 to 278.630, inclusive ~~††~~, *and sections 2 to 8, inclusive, of this act.*

**Sec. 16.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~††~~ *A residential facility for groups must be equipped with a residential fire sprinkler system [that meets the requirements prescribed in NFPA 13R: Standard for the Installation of Sprinkler Systems in Low Rise Residential Occupancies of the National Fire Protection Association] if the facility has [two] three or more residents who would have difficulty perceiving danger or moving to safety in the event of a fire.*

~~†~~ *2. The Division shall review each edition of NFPA 13R: Standard for the Installation of Sprinkler Systems in Low Rise Residential Occupancies that is published after the 2016 edition to ensure its suitability. Each new edition of that*



~~standard shall be deemed approved by the Division unless the edition is disapproved by the Division within 60 days after the publication of the standard.]~~

**Sec. 17.** NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.030 to 449.2428, inclusive, *and section 16 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

**Sec. 18.** NRS 449.0306 is hereby amended to read as follows:

449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Division shall enforce the provisions of NRS 449.030 to 449.245, inclusive, *and section 16 of this act* and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

**Sec. 19.** NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.030 to 449.2428, inclusive, *and section 16 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, *and section 16 of this act*, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, *and section 16 of this act* and 449.435 to 449.965, inclusive, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

1 (a) A summary of a complaint against the facility if the investigation of the  
2 complaint by the Division either substantiates the complaint or is inconclusive;

3 (b) A report of any investigation conducted with respect to the complaint; and

4 (c) A report of any disciplinary action taken against the facility.

5 ↪ The facility shall make the information available to the public pursuant to NRS  
6 449.2486.

7 4. On or before February 1 of each odd-numbered year, the Division shall  
8 submit to the Director of the Legislative Counsel Bureau a written report setting  
9 forth, for the previous biennium:

10 (a) Any complaints included in the log maintained by the Division pursuant to  
11 subsection 3; and

12 (b) Any disciplinary actions taken by the Division pursuant to subsection 2.

13 **Sec. 20.** NRS 449.163 is hereby amended to read as follows:

14 449.163 1. In addition to the payment of the amount required by NRS  
15 449.0308, if a medical facility or facility for the dependent violates any provision  
16 related to its licensure, including any provision of NRS 439B.410 or 449.030 to  
17 449.2428, inclusive, *and section 16 of this act*, or any condition, standard or  
18 regulation adopted by the Board, the Division, in accordance with the regulations  
19 adopted pursuant to NRS 449.165, may:

20 (a) Prohibit the facility from admitting any patient until it determines that the  
21 facility has corrected the violation;

22 (b) Limit the occupancy of the facility to the number of beds occupied when  
23 the violation occurred, until it determines that the facility has corrected the  
24 violation;

25 (c) If the license of the facility limits the occupancy of the facility and the  
26 facility has exceeded the approved occupancy, require the facility, at its own  
27 expense, to move patients to another facility that is licensed;

28 (d) Impose an administrative penalty of not more than \$1,000 per day for each  
29 violation, together with interest thereon at a rate not to exceed 10 percent per  
30 annum; and

31 (e) Appoint temporary management to oversee the operation of the facility and  
32 to ensure the health and safety of the patients of the facility, until:

33 (1) It determines that the facility has corrected the violation and has  
34 management which is capable of ensuring continued compliance with the  
35 applicable statutes, conditions, standards and regulations; or

36 (2) Improvements are made to correct the violation.

37 2. If a violation by a medical facility or facility for the dependent relates to  
38 the health or safety of a patient, an administrative penalty imposed pursuant to  
39 paragraph (d) of subsection 1 must be in a total amount of not less than \$1,000 and  
40 not more than \$10,000 for each patient who was harmed or at risk of harm as a  
41 result of the violation.

42 3. If the facility fails to pay any administrative penalty imposed pursuant to  
43 paragraph (d) of subsection 1, the Division may:

44 (a) Suspend the license of the facility until the administrative penalty is paid;  
45 and

46 (b) Collect court costs, reasonable attorney's fees and other costs incurred to  
47 collect the administrative penalty.

48 4. The Division may require any facility that violates any provision of NRS  
49 439B.410 or 449.030 to 449.2428, inclusive, *and section 16 of this act*, or any  
50 condition, standard or regulation adopted by the Board to make any improvements  
51 necessary to correct the violation.

52 5. Any money collected as administrative penalties pursuant to paragraph (d)  
53 of subsection 1 must be accounted for separately and used to administer and carry

1 out the provisions of NRS 449.001 to 449.430, inclusive, *and section 16 of this act*  
2 and 449.435 to 449.965, inclusive, to protect the health, safety, well-being and  
3 property of the patients and residents of facilities in accordance with applicable  
4 state and federal standards or for any other purpose authorized by the Legislature.

5 **Sec. 21.** This act becomes effective on July 1, 2017.