

Amendment No. 777

Assembly Amendment to Senate Bill No. 477 First Reprint	(BDR 22-146)
Proposed by: Assembly Committee on Government Affairs	
Amends: 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: 5/19/2017

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 ~~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 in which fewer than 11 persons reside.

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 if the facility has three or more residents who would have difficulty perceiving danger or moving to safety in the event of a fire.

Sections 2-4, 6, 10-15 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.*

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

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

5 Sec. 5. (Deleted by amendment.)

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

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

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

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

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

16 (b) *Home for individual residential care.*

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

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

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

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

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

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

31 Sec. 8. (Deleted by amendment.)

32 Sec. 9. (Deleted by amendment.)

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

34 278.0235 No action or proceeding may be commenced for the purpose of
35 seeking judicial relief or review from or with respect to any final action, decision or
36 order of any governing body, commission or board authorized by NRS 278.010 to
37 278.630, inclusive, *and sections 2 to 8, inclusive, of this act*, unless the action or
38 proceeding is commenced within 25 days after the date of filing of notice of the
39 final action, decision or order with the clerk or secretary of the governing body,
40 commission or board.

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

42 278.02788 1. If a city has a sphere of influence that is designated in the
43 comprehensive regional plan, the city shall adopt a master plan concerning the
44 territory within the sphere of influence. The master plan and any ordinance required
45 by the master plan must be consistent with the comprehensive regional plan. After
46 adoption and certification of a master plan concerning the territory within the
47 sphere of influence and after adopting the ordinances required by the master plan, if
48 any, the city may exercise any power conferred pursuant to NRS 278.010 to
49 278.630, inclusive, *and sections 2 to 8, inclusive, of this act* within its sphere of
50 influence.

51 2. If the comprehensive regional plan designates that all or part of the sphere
52 of influence of a city is a joint planning area, the master plan and any ordinance

1 adopted by the city pursuant to subsection 1 must be consistent with the master plan
2 that is adopted for the joint planning area.

3 3. Before certification of the master plan for the sphere of influence pursuant
4 to NRS 278.028, any action taken by the county pursuant to NRS 278.010 to
5 278.630, inclusive, *and sections 2 to 8, inclusive, of this act* within the sphere of
6 influence of a city must be consistent with the comprehensive regional plan.

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

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

18 278.160 1. Except as otherwise provided in this section and NRS 278.150
19 and 278.170, the master plan, with the accompanying charts, drawings, diagrams,
20 schedules and reports, may include such of the following elements or portions
21 thereof as are appropriate to the city, county or region, and as may be made the
22 basis for the physical development thereof:

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

24 (1) A conservation plan for the conservation, development and utilization
25 of natural resources, including, without limitation, water and its hydraulic force,
26 underground water, water supply, solar or wind energy, forests, soils, rivers and
27 other waters, harbors, fisheries, wildlife, minerals and other natural resources. The
28 conservation plan must also cover the reclamation of land and waters, flood control,
29 prevention and control of the pollution of streams and other waters, regulation of
30 the use of land in stream channels and other areas required for the accomplishment
31 of the conservation plan, prevention, control and correction of the erosion of soils
32 through proper clearing, grading and landscaping, beaches and shores, and
33 protection of watersheds. The conservation plan must also indicate the maximum
34 tolerable level of air pollution.

35 (2) A solid waste disposal plan showing general plans for the disposal of
36 solid waste.

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

38 (1) A historic neighborhood preservation plan which:

39 (I) Must include, without limitation, a plan to inventory historic
40 neighborhoods and a statement of goals and methods to encourage the preservation
41 of historic neighborhoods.

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

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

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

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

52 (2) An inventory of existing affordable housing in the community,
53 including, without limitation, housing that is available to rent or own, housing that

1 is subsidized either directly or indirectly by this State, an agency or political
2 subdivision of this State, or the Federal Government or an agency of the Federal
3 Government, and housing that is accessible to persons with disabilities.

4 (3) An analysis of projected growth and the demographic characteristics of
5 the community.

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

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

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

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

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

17 (7) An analysis of the needs and appropriate methods for the construction
18 of affordable housing or the conversion or rehabilitation of existing housing to
19 affordable housing.

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

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

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

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

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

35 (II) May include a provision concerning the acquisition and use of land
36 that is under federal management within the city, county or region, including,
37 without limitation, a plan or statement of policy prepared pursuant to NRS
38 321.7355.

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

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

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

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

49 (3) An aboveground utility plan that shows corridors designated for the
50 construction of aboveground utilities and complies with the provisions of NRS
51 278.165.

(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.*

1 **Sec. 14.** NRS 119.340 is hereby amended to read as follows:
2 119.340 The provisions of this chapter are in addition to and not a substitute
3 for NRS 278.010 to 278.630, inclusive ~~†~~, *and sections 2 to 8, inclusive, of this*
4 *act.*

5 **Sec. 15.** NRS 270.180 is hereby amended to read as follows:
6 270.180 NRS 270.160 and 270.170 are intended to supplement and not to
7 supersede the existing laws relating to the vacation of city and town plats and do
8 not apply to land divided pursuant to NRS 278.010 to 278.630, inclusive ~~†~~, *and*
9 *sections 2 to 8, inclusive, of this act.*

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

12 *A residential facility for groups must be equipped with a ~~residential~~ fire*
13 *sprinkler system if the facility has three or more residents who would have*
14 *difficulty perceiving danger or moving to safety in the event of a fire.*

15 **Sec. 17.** NRS 449.0301 is hereby amended to read as follows:
16 449.0301 The provisions of NRS 449.030 to 449.2428, inclusive, *and section*
17 *16 of this act* do not apply to:

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

24 2. Foster homes as defined in NRS 424.014.

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

27 **Sec. 18.** NRS 449.0306 is hereby amended to read as follows:
28 449.0306 1. Money received from licensing medical facilities and facilities
29 for the dependent must be forwarded to the State Treasurer for deposit in the State
30 General Fund.

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

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

36 449.160 1. The Division may deny an application for a license or may
37 suspend or revoke any license issued under the provisions of NRS 449.030 to
38 449.2428, inclusive, *and section 16 of this act* upon any of the following grounds:

39 (a) Violation by the applicant or the licensee of any of the provisions of NRS
40 439B.410 or 449.030 to 449.245, inclusive, *and section 16 of this act*, or of any
41 other law of this State or of the standards, rules and regulations adopted thereunder.

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

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

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

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

53 (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:

- (a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;
- (b) A report of any investigation conducted with respect to the complaint; and
- (c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

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

- (a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and
- (b) Any disciplinary actions taken by the Division pursuant to subsection 2.

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

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

- (a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;
- (b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

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

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

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

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

(2) Improvements are made to correct the violation.

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

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

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

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

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

5. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and section 16 of this act* and 449.435 to 449.965, inclusive, to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature.

Sec. 20.5. 1. The requirements of section 16 of this act apply to any residential facility for groups that:

(a) Has three or more residents who would have difficulty perceiving danger or moving to safety in the event of a fire; and

(b) Is in operation on or after July 1, 2017.

2. As used in this section, "residential facility for groups" has the meaning ascribed to it in NRS 449.017.

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