

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, 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. (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 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 zoning.*

3. *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. (Deleted by amendment.)



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1 **Sec. 9.** (Deleted by amendment.)

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

3 278.0235 No action or proceeding may be commenced for the
4 purpose of seeking judicial relief or review from or with respect to
5 any final action, decision or order of any governing body,
6 commission or board authorized by NRS 278.010 to 278.630,
7 inclusive, *and sections 2 to 8, inclusive, of this act*, unless the
8 action or proceeding is commenced within 25 days after the date of
9 filing of notice of the final action, decision or order with the clerk or
10 secretary of the governing body, commission or board.

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

13 278.02788 1. If a city has a sphere of influence that is
14 designated in the comprehensive regional plan, the city shall adopt a
15 master plan concerning the territory within the sphere of influence.
16 The master plan and any ordinance required by the master plan must
17 be consistent with the comprehensive regional plan. After adoption
18 and certification of a master plan concerning the territory within the
19 sphere of influence and after adopting the ordinances required by
20 the master plan, if any, the city may exercise any power conferred
21 pursuant to NRS 278.010 to 278.630, inclusive, *and sections 2 to 8,*
22 *inclusive, of this act* within its sphere of influence.

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

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

33 4. A person, county or city that is represented on the governing
34 board and is aggrieved by a final determination of the county or,
35 after the certification of the master plan for a sphere of influence, is
36 aggrieved by a final determination of the city, concerning zoning, a
37 subdivision map, a parcel map or the use of land within the sphere
38 of influence may appeal the decision to the regional planning
39 commission within 30 days after the determination. A person,
40 county or city that is aggrieved by the determination of the regional
41 planning commission may appeal the decision to the governing
42 board within 30 days after the determination. A person, county or
43 city that is aggrieved by the determination of the governing board
44 may seek judicial review of the decision within 25 days after the
45 determination.



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

(a) A conservation element, which must include:

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

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

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

(1) A historic neighborhood preservation plan which:

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

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

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

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

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

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the



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1 Federal Government or an agency of the Federal Government, and
2 housing that is accessible to persons with disabilities.

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

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

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

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

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

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

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

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

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

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

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

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

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



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(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



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1 plan may set forth policies for avoiding or minimizing the risks from
2 those hazards.

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

6 (h) A transportation element, which must include:

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

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

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

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

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

30 119.128 An exemption pursuant to this chapter is not an
31 exemption from the provisions of NRS 278.010 to 278.630,
32 inclusive **H**, *and sections 2 to 8, inclusive, of this act.*

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

34 119.340 The provisions of this chapter are in addition to and
35 not a substitute for NRS 278.010 to 278.630, inclusive **H**, *and*
36 *sections 2 to 8, inclusive, of this act.*

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

38 270.180 NRS 270.160 and 270.170 are intended to supplement
39 and not to supersede the existing laws relating to the vacation of city
40 and town plats and do not apply to land divided pursuant to NRS
41 278.010 to 278.630, inclusive **H**, *and sections 2 to 8, inclusive, of*
42 *this act.*



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

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

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

8 449.0301 The provisions of NRS 449.030 to 449.2428,
9 inclusive, *and section 16 of this act* do not apply to:

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

17 2. Foster homes as defined in NRS 424.014.

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

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

22 449.0306 1. Money received from licensing medical facilities
23 and facilities for the dependent must be forwarded to the State
24 Treasurer for deposit in the State General Fund.

25 2. The Division shall enforce the provisions of NRS 449.030 to
26 449.245, inclusive, *and section 16 of this act* and may incur any
27 necessary expenses not in excess of money appropriated for that
28 purpose by the State or received from the Federal Government.

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

30 449.160 1. The Division may deny an application for a
31 license or may suspend or revoke any license issued under the
32 provisions of NRS 449.030 to 449.2428, inclusive, *and section 16*
33 *of this act* upon any of the following grounds:

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

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

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

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



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(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:

(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



1 adopted by the Board, the Division, in accordance with the
2 regulations adopted pursuant to NRS 449.165, may:

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

5 (b) Limit the occupancy of the facility to the number of beds
6 occupied when the violation occurred, until it determines that the
7 facility has corrected the violation;

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

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

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

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

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

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

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

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

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

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

40 5. Any money collected as administrative penalties pursuant to
41 paragraph (d) of subsection 1 must be accounted for separately and
42 used to administer and carry out the provisions of NRS 449.001 to
43 449.430, inclusive, *and section 16 of this act* and 449.435 to
44 449.965, inclusive, to protect the health, safety, well-being and
45 property of the patients and residents of facilities in accordance with



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- 1 applicable state and federal standards or for any other purpose
- 2 authorized by the Legislature.
- 3 **Sec. 21.** This act becomes effective on July 1, 2017.

