

ASSEMBLY BILL NO. 149—ASSEMBLYMAN FUMO

FEBRUARY 15, 2019

JOINT SPONSOR: SENATOR OHRENSCHALL

Referred to Committee on Judiciary

SUMMARY—Abolishes capital punishment. (BDR 15-774)

FISCAL NOTE: Effect on Local Government: No.
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 crimes; abolishing the imposition of a sentence of death on a person convicted of first degree murder; amending or repealing related statutes pertaining to the existence, imposition and execution of a sentence of death on a person convicted of first degree murder; reducing the sentence of any person sentenced to death to a sentence of imprisonment for life without the possibility of parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a sentence of death may be imposed on a person convicted of first degree murder under certain circumstances. (NRS 200.030) **Section 1** of this bill eliminates the possibility of the imposition of a sentence of death on a person convicted of first degree murder. **Section 45** of this bill reduces the sentence of any person sentenced to death to a sentence of imprisonment for life without the possibility of parole. **Sections 2-41 and 44** of this bill make conforming changes.

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

Section 1. NRS 193.120 is hereby amended to read as follows:
193.120 1. A crime is an act or omission forbidden by law and punishable upon conviction by ~~death,~~ imprisonment, fine or other penal discipline.



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2. Every crime ~~[which may be punished by death or]~~
punishable by imprisonment in the state prison is a felony.

3. Every crime punishable by a fine of not more than \$1,000,
or by imprisonment in a county jail for not more than 6 months, is a
misdemeanor.

4. Every other crime is a gross misdemeanor.

Sec. 2. NRS 193.130 is hereby amended to read as follows:

193.130 1. Except when a person is convicted of a category
A felony, and except as otherwise provided by specific statute, a
person convicted of a felony shall be sentenced to a minimum term
and a maximum term of imprisonment which must be within the
limits prescribed by the applicable statute, unless the statute in force
at the time of commission of the felony prescribed a different
penalty. The minimum term of imprisonment that may be imposed
must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each
felony committed on or after ~~[July 1, 1995:]~~ *the effective date of
this act:*

(a) A category A felony is a felony for which a sentence of
~~[death or]~~ imprisonment in the state prison for life with or without
the possibility of parole may be imposed, as provided by specific
statute.

(b) A category B felony is a felony for which the minimum term
of imprisonment in the state prison that may be imposed is not less
than 1 year and the maximum term of imprisonment that may be
imposed is not more than 20 years, as provided by specific statute.

(c) A category C felony is a felony for which a court shall
sentence a convicted person to imprisonment in the state prison for a
minimum term of not less than 1 year and a maximum term of not
more than 5 years. In addition to any other penalty, the court may
impose a fine of not more than \$10,000, unless a greater fine is
authorized or required by statute.

(d) A category D felony is a felony for which a court shall
sentence a convicted person to imprisonment in the state prison for a
minimum term of not less than 1 year and a maximum term of not
more than 4 years. In addition to any other penalty, the court may
impose a fine of not more than \$5,000, unless a greater fine is
authorized or required by statute.

(e) A category E felony is a felony for which a court shall
sentence a convicted person to imprisonment in the state prison for a
minimum term of not less than 1 year and a maximum term of not
more than 4 years. Except as otherwise provided in paragraph (b) of
subsection 1 of NRS 176A.100, upon sentencing a person who is
found guilty of a category E felony, the court shall suspend the
execution of the sentence and grant probation to the person upon



1 such conditions as the court deems appropriate. Such conditions of
2 probation may include, but are not limited to, requiring the person to
3 serve a term of confinement of not more than 1 year in the county
4 jail. In addition to any other penalty, the court may impose a fine of
5 not more than \$5,000, unless a greater penalty is authorized or
6 required by statute.

7 **Sec. 3.** NRS 194.010 is hereby amended to read as follows:

8 194.010 All persons are liable to punishment except those
9 belonging to the following classes:

10 1. Children under the age of 8 years.

11 2. Children between the ages of 8 years and 10 years, unless
12 the child is charged with murder or a sexual offense as defined in
13 NRS 62F.100.

14 3. Children between the ages of 8 years and 14 years, in the
15 absence of clear proof that at the time of committing the act charged
16 against them they knew its wrongfulness.

17 4. Persons who committed the act charged or made the
18 omission charged in a state of insanity.

19 5. Persons who committed the act or made the omission
20 charged under an ignorance or mistake of fact, which disproves any
21 criminal intent, where a specific intent is required to constitute the
22 offense.

23 6. Persons who committed the act charged without being
24 conscious thereof.

25 7. Persons who committed the act or made the omission
26 charged, through misfortune or by accident, when it appears that
27 there was no evil design, intention or culpable negligence.

28 8. Persons, unless the crime is ~~[punishable with death,]~~ **murder**
29 **of the first degree**, who committed the act or made the omission
30 charged under threats or menaces sufficient to show that they had
31 reasonable cause to believe, and did believe, their lives would be
32 endangered if they refused, or that they would suffer great bodily
33 harm.

34 **Sec. 4.** NRS 200.030 is hereby amended to read as follows:

35 200.030 1. Murder of the first degree is murder which is:

36 (a) Perpetrated by means of poison, lying in wait or torture, or
37 by any other kind of willful, deliberate and premeditated killing;

38 (b) Committed in the perpetration or attempted perpetration of
39 sexual assault, kidnapping, arson, robbery, burglary, invasion of the
40 home, sexual abuse of a child, sexual molestation of a child under
41 the age of 14 years, child abuse or abuse of an older person or
42 vulnerable person pursuant to NRS 200.5099;

43 (c) Committed to avoid or prevent the lawful arrest of any
44 person by a peace officer or to effect the escape of any person from
45 legal custody;



(d) Committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person; or

(e) Committed in the perpetration or attempted perpetration of an act of terrorism.

2. Murder of the second degree is all other kinds of murder.

3. The jury before whom any person indicted for murder is tried shall, if they find the person guilty thereof, designate by their verdict whether the person is guilty of murder of the first or second degree.

4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished ~~by~~:

~~—(a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to NRS 174.098 that the defendant is a person with an intellectual disability and has stricken the notice of intent to seek the death penalty; or~~

~~—(b) By~~ **by** imprisonment in the state prison:

~~[(1)]~~ **(a)** For life without the possibility of parole;

~~[(2)]~~ **(b)** For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or

~~[(3)]~~ **(c)** For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~[→ A determination of whether aggravating circumstances exist is not necessary to fix the penalty at imprisonment for life with or without the possibility of parole.]~~

5. A person convicted of murder of the second degree is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

6. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415;

(b) "Child abuse" means physical injury of a nonaccidental nature to a child under the age of 18 years;

(c) "School bus" has the meaning ascribed to it in NRS 483.160;



(d) "Sexual abuse of a child" means any of the acts described in NRS 432B.100; and

(e) "Sexual molestation" means any willful and lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of the perpetrator or of the child.

Sec. 5. NRS 7.125 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

4. If the appointing court because of:

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



- (b) The severity of the offense;
- (c) The time necessary to provide an adequate defense; or
- (d) Other special circumstances,

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

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

Sec. 6. NRS 34.724 is hereby amended to read as follows:

34.724 1. Any person convicted of a crime and under sentence of ~~death or~~ imprisonment who claims that the conviction was obtained, or that the sentence was imposed, in violation of the Constitution of the United States or the Constitution or laws of this State, or who claims that the time the person has served pursuant to the judgment of conviction has been improperly computed, may, without paying a filing fee, file a postconviction petition for a writ of habeas corpus to obtain relief from the conviction or sentence or to challenge the computation of time that the person has served.

2. Such a petition:

(a) Is not a substitute for and does not affect any remedies which are incident to the proceedings in the trial court or the remedy of direct review of the sentence or conviction.

(b) Comprehends and takes the place of all other common-law, statutory or other remedies which have been available for challenging the validity of the conviction or sentence, and must be used exclusively in place of them.

(c) Is the only remedy available to an incarcerated person to challenge the computation of time that the person has served pursuant to a judgment of conviction.

3. For the purposes of this section, a motion to withdraw a plea of guilty, guilty but mentally ill or nolo contendere pursuant to NRS 176.165 that is made after sentence is imposed or imposition of sentence is suspended is a remedy which is incident to the proceedings in the trial court if:



(a) The person has not filed a prior motion to withdraw the plea and has not filed a prior postconviction petition for a writ of habeas corpus;

(b) The motion is filed within 1 year after the date on which the person was convicted, unless the person pleads specific facts demonstrating that some impediment external to the defense precluded bringing the motion earlier;

(c) At the time the person files the motion to withdraw the plea, the person is not incarcerated for the charge for which the person entered the plea; and

(d) The motion is not barred by the doctrine of laches. A motion filed more than 5 years after the date on which the person was convicted creates a rebuttable presumption of prejudice to the State on the basis of laches.

4. The court shall not appoint counsel to represent a person for the purpose of subsection 3.

Sec. 7. NRS 34.735 is hereby amended to read as follows:

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

Case No.
Dept. No.

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

.....
Petitioner,

v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

.....
Respondent.

INSTRUCTIONS:

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

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



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

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

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

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

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

PETITION

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

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



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3. Date of judgment of conviction:

4. Case number:

5. ~~(a)~~ Length of sentence:

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

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes No

If "yes," list crime, case number and sentence being served at this time:

.....

.....

7. Nature of offense involved in conviction being challenged:

.....

8. What was your plea? (check one)

(a) Not guilty

(b) Guilty

(c) Guilty but mentally ill

(d) Nolo contendere

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details:

.....

.....

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury

(b) Judge without a jury

11. Did you testify at the trial? Yes No

12. Did you appeal from the judgment of conviction? Yes No

13. If you did appeal, answer the following:

(a) Name of court:

(b) Case number or citation:

(c) Result:

(d) Date of result:

(Attach copy of order or decision, if available.)



14. If you did not appeal, explain briefly why you did not:

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes No

16. If your answer to No. 15 was "yes," give the following information:

(a) (1) Name of court:

(2) Nature of proceeding:

(3) Grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result:

(6) Date of result:

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(b) As to any second petition, application or motion, give the same information:

(1) Name of court:

(2) Nature of proceeding:

(3) Grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(5) Result:

(6) Date of result:

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes
No



Citation or date of decision:
(2) Second petition, application or motion? Yes
No

Citation or date of decision:
(3) Third or subsequent petitions, applications or
motions? Yes No

Citation or date of decision:
(e) If you did not appeal from the adverse action
on any petition, application or motion, explain briefly why
you did not. (You must relate specific facts in response
to this question. Your response may be included on paper
which is 8 1/2 by 11 inches attached to the petition. Your
response may not exceed five handwritten or typewritten
pages in length.)

.....
.....

17. Has any ground being raised in this petition been
previously presented to this or any other court by way of
petition for habeas corpus, motion, application or any other
postconviction proceeding? If so, identify:

(a) Which of the grounds is the same:

(b) The proceedings in which these grounds were
raised:

.....
.....

(c) Briefly explain why you are again raising these
grounds. (You must relate specific facts in response to this
question. Your response may be included on paper which is 8
1/2 by 11 inches attached to the petition. Your response may
not exceed five handwritten or typewritten pages in length.) ..

.....
.....

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

.....
.....



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

9
10 20. Do you have any petition or appeal now pending in
11 any court, either state or federal, as to the judgment under
12 attack? Yes No
13 If yes, state what court and the case number:

14
15 21. Give the name of each attorney who represented you
16 in the proceeding resulting in your conviction and on direct
17 appeal:

18
19 22. Do you have any future sentences to serve after you
20 complete the sentence imposed by the judgment under attack?
21 Yes No
22 If yes, specify where and when it is to be served, if you
23 know:

24
25 23. State concisely every ground on which you claim
26 that you are being held unlawfully. Summarize briefly the
27 facts supporting each ground. If necessary you may attach
28 pages stating additional grounds and facts supporting same.

29 (a) Ground one:

30
31 Supporting FACTS (Tell your story briefly without citing
32 cases or law.):

33
34
35 (b) Ground two:

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

39
40
41 (c) Ground three:

42
.....



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

(d) Ground four:

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

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

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

.....
Signature of petitioner

.....
Address

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

.....
Attorney for petitioner

.....
Address

VERIFICATION

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

.....
Petitioner

.....
Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I,, hereby certify, pursuant to N.R.C.P. 5(b), that on this day of the month of of



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the year, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Respondent prison or jail official

Address

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

District Attorney of County of Conviction

Address

Signature of Petitioner

Sec. 8. NRS 171.198 is hereby amended to read as follows:

171.198 1. Except as otherwise provided in subsection 2, a magistrate shall employ a certified court reporter to take down all the testimony and the proceedings on the hearing or examination and, within such time as the court may designate, have such testimony and proceedings transcribed into typewritten transcript.

2. A magistrate who presides over a preliminary hearing in a justice court ~~[, in any case other than in a case in which the death penalty is sought,]~~ may employ a certified court reporter to take down all the testimony and the proceedings on the hearing or appoint a person to use sound recording equipment to record all the testimony and the proceedings on the hearing. If the magistrate appoints a person to use sound recording equipment to record the testimony and proceedings on the hearing, the testimony and proceedings must be recorded and transcribed in the same manner as set forth in NRS 4.390 to 4.420, inclusive. Any transcript of the testimony and proceedings produced from a recording conducted pursuant to this subsection is subject to the provisions of this section in the same manner as a transcript produced by a certified court reporter.

3. When the testimony of each witness is all taken and transcribed by the reporter, the reporter shall certify to the transcript in the same manner as for a transcript of testimony in the district



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1 court, which certificate authenticates the transcript for all purposes
2 of this title.

3 4. Before the date set for trial, either party may move the court
4 before which the case is pending to add to, delete from or otherwise
5 correct the transcript to conform with the testimony as given and to
6 settle the transcript so altered.

7 5. The compensation for the services of a reporter employed as
8 provided in this section are the same as provided in NRS 3.370, to
9 be paid out of the county treasury as other claims against the county
10 are allowed and paid.

11 6. Testimony reduced to writing and authenticated according to
12 the provisions of this section must be filed by the examining
13 magistrate with the clerk of the district court of the magistrate's
14 county, and if the prisoner is subsequently examined upon a writ of
15 habeas corpus, such testimony must be considered as given before
16 such judge or court. A copy of the transcript must be furnished to
17 the defendant and to the district attorney.

18 7. The testimony so taken may be used:

19 (a) By the defendant; or

20 (b) By the State if the defendant was represented by counsel or
21 affirmatively waived his or her right to counsel,
22 ↪ upon the trial of the cause, and in all proceedings therein, when
23 the witness is sick, out of the State, dead, or persistent in refusing to
24 testify despite an order of the judge to do so, or when the witness's
25 personal attendance cannot be had in court.

26 **Sec. 9.** NRS 174.065 is hereby amended to read as follows:

27 174.065 Except as otherwise provided in NRS 174.061:

28 1. On a plea of guilty or guilty but mentally ill to an
29 information or indictment accusing a defendant of a crime divided
30 into degrees, when consented to by the prosecuting attorney in open
31 court and approved by the court, the plea may specify the degree,
32 and in such event the defendant shall not be punished for a higher
33 degree than that specified in the plea.

34 2. On a plea of guilty or guilty but mentally ill to an indictment
35 or information for murder of the first degree, when consented to by
36 the prosecuting attorney in open court and approved by the court,
37 the plea may specify a punishment . ~~less than death.~~ The specified
38 punishment, or any lesser punishment, may be imposed by a single
39 judge.

40 **Sec. 10.** NRS 175.011 is hereby amended to read as follows:

41 175.011 1. In a district court, cases required to be tried by
42 jury must be so tried unless the defendant waives a jury trial in
43 writing with the approval of the court and the consent of the State. A
44 defendant who pleads not guilty to the charge of ~~[a capital offense]~~
45 **murder of the first degree** must be tried by jury.



2. In a Justice Court, a case must be tried by jury only if the defendant so demands in writing not less than 30 days before trial. Except as otherwise provided in NRS 4.390 and 4.400, if a case is tried by jury, a reporter must be present who is a certified court reporter and shall report the trial.

Sec. 11. NRS 175.051 is hereby amended to read as follows:

175.051 1. If the offense charged is punishable ~~by death or~~ by imprisonment for life, each side is entitled to eight peremptory challenges.

2. If the offense charged is punishable by imprisonment for any other term or by fine or by both fine and imprisonment, each side is entitled to four peremptory challenges.

3. The State and the defendant shall exercise their challenges alternately, in that order. Any challenge not exercised in its proper order is waived.

Sec. 12. NRS 175.151 is hereby amended to read as follows:

175.151 If the indictment or information ~~be for an offense punishable with death,~~ *is for murder of the first degree*, two counsel on each side may argue the case to the jury, but in such case, as well as in all others, the counsel for the State must open and conclude the argument. If ~~it be~~ *the indictment or information is* for any other offense, the court may, in its discretion, restrict the argument to one counsel on each side.

Sec. 13. NRS 175.552 is hereby amended to read as follows:

175.552 1. Except as otherwise provided in subsection 2, in every case in which there is a finding that a defendant is guilty or guilty but mentally ill of murder of the first degree, ~~whether or not the death penalty is sought,~~ the court shall conduct a separate penalty hearing. The separate penalty hearing must be conducted as follows:

(a) If the finding is made by a jury, the separate penalty hearing must be conducted in the trial court before the trial jury, as soon as practicable.

(b) ~~If the finding is made upon a plea of guilty or guilty but mentally ill or a trial without a jury and the death penalty is sought, the separate penalty hearing must be conducted before a jury impaneled for that purpose, as soon as practicable.~~

~~—(c) If the finding is made upon a plea of guilty or guilty but mentally ill or a trial without a jury, and the death penalty is not sought,~~ the separate penalty hearing must be conducted as soon as practicable before the judge who conducted the trial or who accepted the plea.

2. ~~In a case in which the death penalty is not sought or in which a court has made a finding that the defendant is intellectually disabled and has stricken the notice of intent to seek the death~~



~~penalty pursuant to NRS 174.098, the]~~ **The** parties may by stipulation waive the separate penalty hearing required in subsection 1. When stipulating to such a waiver, the parties may also include an agreement to have the sentence, if any, imposed by the trial judge. Any stipulation pursuant to this subsection must be in writing and signed by the defendant, the defendant's attorney, if any, and the prosecuting attorney.

3. During the hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, defendant or victim and on any other matter which the court deems relevant to the sentence, whether or not the evidence is ordinarily admissible. Evidence may be offered to refute hearsay matters. No evidence which was secured in violation of the Constitution of the United States or the Constitution of the State of Nevada may be introduced. ~~[The State may introduce evidence of additional aggravating circumstances as set forth in NRS 200.033, other than the aggravated nature of the offense itself, only if it has been disclosed to the defendant before the commencement of the penalty hearing.~~

~~— 4. In a case in which the death penalty is not sought or in which a court has found the defendant to be intellectually disabled and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the]~~

4. The jury or the trial judge shall determine whether the defendant should be sentenced to life with the possibility of parole or life without the possibility of parole.

Sec. 14. NRS 175.556 is hereby amended to read as follows:

175.556 ~~[1. In a case in which the death penalty is sought, if a jury is unable to reach a unanimous verdict upon the sentence to be imposed, the district judge who conducted the trial or accepted the plea of guilty shall sentence the defendant to life imprisonment without the possibility of parole or impanel a new jury to determine the sentence.~~

~~— 2. In a case in which the death penalty is not sought, if]~~ **If** a jury is unable to reach a unanimous verdict upon the sentence to be imposed, the trial judge shall impose the sentence.

Sec. 15. NRS 176.025 is hereby amended to read as follows:

176.025 A sentence of ~~[death or]~~ life imprisonment without the possibility of parole must not be imposed or inflicted upon any person convicted of a crime now punishable by ~~[death or]~~ life imprisonment without the possibility of parole who at the time of the commission of the crime was less than 18 years of age. As to such a person, the maximum punishment that may be imposed is life imprisonment with the possibility of parole.



Sec. 16. NRS 176.035 is hereby amended to read as follows:

176.035 1. Except as otherwise provided in subsection 3, whenever a person is convicted of two or more offenses, and sentence has been pronounced for one offense, the court in imposing any subsequent sentence may provide that the sentences subsequently pronounced run either concurrently or consecutively with the sentence first imposed. Except as otherwise provided in subsections 3 and 4, if the court makes no order with reference thereto, all such subsequent sentences run concurrently. For offenses committed on or after July 1, 2014, if the court imposes the sentences to run consecutively, the court must pronounce the minimum and maximum aggregate terms of imprisonment pursuant to subsection 2, unless the defendant is sentenced to life imprisonment without the possibility of parole. ~~for death.~~

2. When aggregating terms of imprisonment pursuant to subsection 1:

(a) If at least one sentence imposes a maximum term of imprisonment for life with the possibility of parole, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment, and the maximum aggregate term of imprisonment shall be deemed to be imprisonment in the state prison for life with the possibility of parole.

(b) If all the sentences impose a minimum and maximum term of imprisonment, the court must aggregate the minimum terms of imprisonment to determine the minimum aggregate term of imprisonment and must aggregate the maximum terms of imprisonment to determine the maximum aggregate term of imprisonment.

3. Except as otherwise provided in this subsection, whenever a person under sentence of imprisonment for committing a felony commits another crime constituting a felony and is sentenced to another term of imprisonment for that felony, the latter term must not begin until the expiration of all prior terms, including the expiration of any prior aggregated terms. If the person is a probationer at the time the subsequent felony is committed, the court may provide that the latter term of imprisonment run concurrently with any prior terms or portions thereof. If the person is sentenced to a term of imprisonment for life without the possibility of parole, the sentence must be executed without reference to the unexpired term of imprisonment and without reference to eligibility for parole.

4. Whenever a person under sentence of imprisonment commits another crime constituting a misdemeanor or gross misdemeanor, the court shall provide expressly whether the sentence



subsequently pronounced runs concurrently or consecutively with the one first imposed.

5. Whenever a person under sentence of imprisonment commits ~~another~~ *the* crime ~~for which the punishment is death,~~ *of murder of the first degree*, the sentence must be executed without reference to the unexpired term of imprisonment.

6. This section does not prevent the State Board of Parole Commissioners from paroling a person under consecutive sentences of imprisonment from a current term of imprisonment to a subsequent term of imprisonment.

Sec. 17. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to ~~176.0919,~~ *176.09187*, inclusive, unless the context otherwise requires, the words and terms defined in NRS 176.09111 to 176.09119, inclusive, have the meanings ascribed to them in those sections.

Sec. 18. NRS 176.09121 is hereby amended to read as follows:

176.09121 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 ~~176.0919,~~ *176.09187*, inclusive.

(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. 19. NRS 176.09165 is hereby amended to read as follows:

176.09165 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 ~~176.0919,~~ *176.09187*, inclusive.

(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. 20. NRS 176.09177 is hereby amended to read as follows:

176.09177 Any person authorized to collect a biological specimen pursuant to NRS 176.0911 to ~~176.0919,~~ 176.0918, inclusive, 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. 21. NRS 176.0918 is hereby amended to read as follows:

176.0918 1. A person convicted of a felony who otherwise meets the requirements of this section may file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction. ~~If the case involves a sentence of death, the petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.~~

2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:



(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;

(b) The rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in paragraph (a);

(c) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a);

(d) If applicable, the results of all prior genetic marker analysis performed on evidence in the trial which resulted in the petitioner's conviction; and

(e) A statement that the type of genetic marker analysis the petitioner is requesting was not available at the time of trial or, if it was available, that the failure to request genetic marker analysis before the petitioner was convicted was not a result of a strategic or tactical decision as part of the representation of the petitioner at the trial.

4. If a petition is filed pursuant to this section, the court may:

(a) Enter an order dismissing the petition without a hearing if the court determines, based on the information contained in the petition, that the petitioner does not meet the requirements set forth in this section;

(b) After determining whether the petitioner is indigent pursuant to NRS 171.188 and whether counsel was appointed in the case which resulted in the conviction, appoint counsel for the limited purpose of reviewing, supplementing and presenting the petition to the court; or

(c) Schedule a hearing on the petition. If the court schedules a hearing on the petition, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring, during the pendency of the proceeding, each person or agency in possession or custody of the evidence to:

(1) Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

(2) Within 90 days, prepare an inventory of all evidence relevant to the claims in the petition within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

(3) Within 90 days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.



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5. Within 90 days after the inventory of all evidence is prepared pursuant to subsection 4, the prosecuting attorney may file a written response to the petition with the court.

6. If the court holds a hearing on a petition filed pursuant to this section, the hearing must be presided over by the judge who conducted the trial that resulted in the conviction of the petitioner, unless that judge is unavailable. Any evidence presented at the hearing by affidavit must be served on the opposing party at least 15 days before the hearing.

7. If a petitioner files a petition pursuant to this section, the court schedules a hearing on the petition and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to the victim notice of:

(a) The fact that the petitioner filed a petition pursuant to this section;

(b) The time and place of the hearing scheduled by the court as a result of the petition; and

(c) The outcome of any hearing on the petition.

Sec. 22. NRS 176.325 is hereby amended to read as follows:

176.325 When a judgment of imprisonment to be served in the state prison has been pronounced, triplicate certified paper or electronic copies of the judgment of conviction, attested by the clerk under the seal of the court, must forthwith be furnished to the officers whose duty it is to execute the judgment, as provided by NRS 176.335, and no other warrant or authority is necessary to justify or require the execution thereof . ~~It, except when a judgment of death is rendered.~~

Sec. 23. NRS 177.015 is hereby amended to read as follows:

177.015 The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the State or the defendant:

(a) To the district court of the county from a final judgment of the justice court.

(b) To the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial.

~~It(c) To the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution from a determination of the district court about whether a defendant is intellectually disabled that is made as a result of a hearing held pursuant to NRS 174.098. If the appellate court of competent jurisdiction entertains the appeal,~~



~~it shall enter an order staying the criminal proceedings against the defendant for such time as may be required.]~~

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

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

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

Sec. 24. NRS 177.075 is hereby amended to read as follows:

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

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



3. A notice of appeal must be signed:

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

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

Sec. 25. NRS 177.235 is hereby amended to read as follows:

177.235 Upon the argument of the appeal, if the offense is ~~[punishable with death,]~~ *murder of the first degree*, two counsel ~~[shall]~~ *must* be heard on each side, if they require it. In any other case the Court may, in its discretion, restrict the argument to one counsel on each side.

Sec. 26. NRS 178.388 is hereby amended to read as follows:

178.388 1. Except as otherwise provided in this title, the defendant must be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence. A corporation may appear by counsel for all purposes.

2. In prosecutions for offenses ~~[not punishable by death:]~~ *other than murder of the first degree:*

(a) The defendant's voluntary absence after the trial has been commenced in the defendant's presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time the defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill but at the time of sentencing is incarcerated in another jurisdiction, the defendant may waive the right to be present at the sentencing proceedings and agree to be sentenced in this State in his or her absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer;

(3) Signed and dated by the defendant's attorney after it has been signed by the defendant and notarized; and

(4) Accompanied by a waiver of the issuance and service of a warrant of arrest and all other procedures incidental to extradition proceedings.

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of the applicable constitutional rights when the defendant gave consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication



1 between the court and the defendant during the proceeding. If
2 closed-circuit television is provided for, members of the news media
3 may observe and record the proceeding from both locations unless
4 the court specifically provides otherwise.

5 5. The defendant's presence is not required at the settling of
6 jury instructions.

7 **Sec. 27.** NRS 178.750 is hereby amended to read as follows:

8 178.750 1. The district attorney for each county shall prepare
9 and submit a report, on a form approved by the Attorney General, to
10 the Attorney General not later than February 1 of each year
11 concerning each case filed during the previous calendar year that
12 included a charge for murder or voluntary manslaughter. The district
13 attorney shall exclude from the report any charge for manslaughter
14 that resulted from a death in a crash involving a motor vehicle.

15 2. The report required pursuant to subsection 1 must include,
16 without limitation:

17 (a) The age, gender and race of the defendant;

18 (b) The age, gender and race of any codefendant or other person
19 charged or suspected of having participated in the homicide and in
20 any alleged related offense;

21 (c) The age, gender and race of the victim of the homicide and
22 any alleged related offense;

23 (d) The date of the homicide and of any alleged related offense;

24 (e) The date of filing of the information or indictment;

25 (f) The name of each court in which the case was prosecuted;

26 (g) ~~Whether or not the prosecutor filed a notice of intent to seek~~
27 ~~the death penalty and, if so, when the prosecutor filed the notice;~~

28 ~~—(h)—~~ The final disposition of the case and whether or not the case
29 was tried before a jury;

30 ~~(i)~~ (h) The race, ethnicity and gender of each member of the
31 jury, if the case was tried by a jury; and

32 ~~(j)~~ (i) The identity of:

33 (1) Each prosecuting attorney who participated in the
34 decision to file the initial charges against the defendant;

35 (2) Each prosecuting attorney who participated in the
36 decision to offer or accept a plea, if applicable;

37 ~~[(3) Each prosecuting attorney who participated in the~~
38 ~~decision to seek the death penalty, if applicable;]~~ and

39 ~~[(4)]~~ (3) Each person outside the office of the district
40 attorney who was consulted in determining whether ~~to seek the~~
41 ~~death penalty or~~ to accept or reject a plea, if any.

42 3. If all the information required pursuant to subsection 1
43 cannot be provided because the case is still in progress, an
44 additional report must be filed with the Attorney General each time



a subsequent report is filed until all the information, to the extent available, has been provided.

Sec. 28. NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his or her sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated or in ill health to such a degree that the offender does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians licensed pursuant to chapter 630 or 633 of NRS, one of whom is not employed by the Department, verify, in writing, that the offender is:

(1) Physically incapacitated or in ill health; or

(2) In ill health and expected to die within 12 months.

2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) The board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

3. Except as otherwise provided in NRS 213.10915, if any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.131, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

➡ If a current address has not been provided by a victim as required by subsection 4 of NRS 213.131, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which



1 is received by the Division of Parole and Probation pursuant to this
2 subsection is confidential.

3 4. If an offender assigned to the custody of the Division of
4 Parole and Probation pursuant to this section escapes or violates any
5 of the terms or conditions of his or her residential confinement or
6 other appropriate supervision as determined by the Division of
7 Parole and Probation:

8 (a) The Division of Parole and Probation may, pursuant to the
9 procedure set forth in NRS 213.410, return the offender to the
10 custody of the Department.

11 (b) The offender forfeits all or part of the credits for good
12 behavior earned by the offender before the escape or violation, as
13 determined by the Director. The Director may provide for a
14 forfeiture of credits pursuant to this paragraph only after proof of the
15 offense and notice to the offender and may restore credits forfeited
16 for such reasons as the Director considers proper. The decision of
17 the Director regarding such a forfeiture is final.

18 5. The assignment of an offender to the custody of the Division
19 of Parole and Probation pursuant to this section shall be deemed:

20 (a) A continuation of the offender's imprisonment and not a
21 release on parole; and

22 (b) For the purposes of NRS 209.341, an assignment to a facility
23 of the Department,

24 ➤ except that the offender is not entitled to obtain any benefits or to
25 participate in any programs provided to offenders in the custody of
26 the Department.

27 6. The Director may not assign an offender to the custody of
28 the Division of Parole and Probation pursuant to this section if the
29 offender is sentenced to ~~death or~~ imprisonment for life without the
30 possibility of parole.

31 7. An offender does not have a right to be assigned to the
32 custody of the Division of Parole and Probation pursuant to this
33 section, or to remain in that custody after such an assignment, and it
34 is not intended that the provisions of this section or of NRS 213.371
35 to 213.410, inclusive, create any right or interest in liberty or
36 property or establish a basis for any cause of action against the
37 State, its political subdivisions, agencies, boards, commissions,
38 departments, officers or employees.

39 8. The Division of Parole and Probation may receive and
40 distribute restitution paid by an offender assigned to the custody of
41 the Division of Parole and Probation pursuant to this section.

42 **Sec. 29.** NRS 209.424 is hereby amended to read as follows:
43 209.424 An offender may not participate in a therapeutic
44 community if the offender:



1 1. Was sentenced to ~~{death or}~~ a term of imprisonment for life
2 without the possibility of parole; or

3 2. Is or was eligible to participate in the program of treatment
4 established pursuant to NRS 209.425, whether or not the offender
5 actually participated in or completed that program of treatment.

6 **Sec. 30.** NRS 212.050 is hereby amended to read as follows:

7 212.050 1. If any person who has been sentenced to
8 confinement in the state prison, by any court having competent
9 authority within this State, escapes therefrom ~~{;}~~ or is charged with
10 murder , ~~{for the perpetration of any crime punishable with death,}~~
11 the Governor may, upon satisfactory evidence of the guilt of the
12 accused, offer a reward for information that leads to his or her
13 apprehension. The reward offered by the Governor must not exceed
14 the sum of \$5,000, and must be paid out of the Reserve for Statutory
15 Contingency Account upon approval by the State Board of
16 Examiners.

17 2. If any person who has been sentenced to confinement in a
18 jail, branch county jail or other local detention facility by any court
19 having competent authority within this State, escapes therefrom ~~{;}~~
20 or is charged with murder , ~~{for the perpetration of any crime~~
21 ~~punishable with death,}~~ the board of county commissioners of the
22 county, the governing body of the city or other local government
23 responsible for the operation of the facility may, upon satisfactory
24 evidence of the guilt of the accused, offer a reward for information
25 that leads to his or her apprehension. The reward offered by the
26 board, governing body or other local government must not exceed
27 the sum of \$5,000.

28 **Sec. 31.** NRS 213.030 is hereby amended to read as follows:

29 213.030 No notice ~~{shall be}~~ **is** required of an application for ~~{;~~
30 ~~—1. A) a~~ restoration to citizenship to take effect at the expiration
31 of a term of imprisonment . ~~{; or~~

32 ~~—2. The commutation of the death penalty.}~~

33 **Sec. 32.** NRS 213.085 is hereby amended to read as follows:

34 213.085 1. If a person is convicted on or after July 1, 1995,
35 of any crime that the person committed when he or she was 18 years
36 of age or older, the Board shall not commute ~~{;~~

37 ~~—(a) A sentence of death; or~~

38 ~~—(b) A) a~~ sentence of imprisonment in the state prison for life
39 without the possibility of parole ~~{;~~

40 ~~→}~~ to a sentence that would allow parole.

41 2. If a person is convicted of any crime that the person
42 committed when he or she was less than 18 years of age, the Board
43 may, in its discretion, commute ~~{;~~



1 ~~— (a) A sentence of death; or~~

2 ~~— (b) A~~ a sentence of imprisonment in the state prison for life
3 without the possibility of parole ~~†~~
4 ~~→~~ to a sentence that would allow parole.

5 **Sec. 33.** NRS 213.10885 is hereby amended to read as
6 follows:

7 213.10885 1. The Board shall adopt by regulation specific
8 standards for each type of convicted person to assist the Board in
9 determining whether to grant or revoke parole. The regulations must
10 include standards for determining whether to grant or revoke the
11 parole of a convicted person:

12 (a) ~~Who committed a capital offense.~~

13 ~~— (b) Who~~ Who was sentenced to serve a term of imprisonment for
14 life.

15 ~~†(c) (b)~~ Who was convicted of a sexual offense involving the
16 use or threat of use of force or violence.

17 ~~†(d) (c)~~ Who was convicted as a habitual criminal.

18 ~~†(e) (d)~~ Who is a repeat offender.

19 ~~†(f) (e)~~ Who was convicted of any other type of offense.

20 → The standards must be based upon objective criteria for
21 determining the person's probability of success on parole.

22 2. In establishing the standards, the Board shall consider the
23 information on decisions regarding parole that is compiled and
24 maintained pursuant to NRS 213.10887 and all other factors which
25 are relevant in determining the probability that a convicted person
26 will live and remain at liberty without violating the law if parole is
27 granted or continued. The other factors the Board considers must
28 include, but are not limited to:

29 (a) The severity of the crime committed;

30 (b) The criminal history of the person;

31 (c) Any disciplinary action taken against the person while
32 incarcerated;

33 (d) Any previous parole violations or failures;

34 (e) Any potential threat to society or to the convicted person;
35 and

36 (f) The length of his or her incarceration.

37 3. In determining whether to grant parole to a convicted
38 person, the Board shall not consider whether the person has
39 appealed the judgment of imprisonment for which the person is
40 being considered for parole.

41 4. The standards adopted by the Board must provide for a
42 greater punishment for a convicted person who has a history of
43 repetitive criminal conduct or who commits a serious crime, with a
44 violent crime considered the most serious, than for a convicted



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1 person who does not have a history of repetitive crimes and did not
2 commit a serious crime.

3 5. The Board shall make available to the public a sample of the
4 form the Board uses in determining the probability that a convicted
5 person will live and remain at liberty without violating the law if
6 parole is granted or continued.

7 6. On or before January 1 of each odd-numbered year, the
8 Board shall review comprehensively the standards adopted by
9 the Board. The review must include a determination of whether the
10 standards are effective in predicting the probability that a convicted
11 person will live and remain at liberty without violating the law if
12 parole is granted or continued. If a standard is found to be
13 ineffective, the Board shall not use that standard in its decisions
14 regarding parole and shall adopt revised standards as soon as
15 practicable after the review.

16 7. The Board shall report to each regular session of the
17 Legislature:

18 (a) The number and percentage of the Board's decisions that
19 conflicted with the standards;

20 (b) The results and conclusions from the Board's review
21 pursuant to subsection 6; and

22 (c) Any changes in the Board's standards, policies, procedures,
23 programs or forms that have been or will be made as a result of the
24 review.

25 **Sec. 34.** NRS 213.1099 is hereby amended to read as follows:

26 213.1099 1. Except as otherwise provided in this section and
27 NRS 213.1215, the Board may release on parole a prisoner who is
28 otherwise eligible for parole pursuant to NRS 213.107 to 213.157,
29 inclusive.

30 2. In determining whether to release a prisoner on parole, the
31 Board shall consider:

32 (a) Whether there is a reasonable probability that the prisoner
33 will live and remain at liberty without violating the laws;

34 (b) Whether the release is incompatible with the welfare of
35 society;

36 (c) The seriousness of the offense and the history of criminal
37 conduct of the prisoner;

38 (d) The standards adopted pursuant to NRS 213.10885 and the
39 recommendation, if any, of the Chief; and

40 (e) Any documents or testimony submitted by a victim notified
41 pursuant to NRS 213.131 or 213.10915.

42 3. When a person is convicted of a felony and is punished by a
43 sentence of imprisonment, the person remains subject to the
44 jurisdiction of the Board from the time the person is released on
45 parole under the provisions of this chapter until the expiration of the



1 maximum term or the maximum aggregate term of imprisonment
2 imposed by the court, as applicable, less any credits earned to
3 reduce his or her sentence pursuant to chapter 209 of NRS.

4 4. Except as otherwise provided in NRS 213.1215, the Board
5 may not release on parole a prisoner whose sentence ~~to death or~~ to
6 life without possibility of parole has been commuted to a lesser
7 penalty unless the Board finds that the prisoner has served at least
8 20 consecutive years in the state prison, is not under an order to be
9 detained to answer for a crime or violation of parole or probation in
10 another jurisdiction, and does not have a history of:

11 (a) Recent misconduct in the institution, and has been
12 recommended for parole by the Director of the Department of
13 Corrections;

14 (b) Repetitive criminal conduct;

15 (c) Criminal conduct related to the use of alcohol or drugs;

16 (d) Repetitive sexual deviance, violence or aggression; or

17 (e) Failure in parole, probation, work release or similar
18 programs.

19 5. In determining whether to release a prisoner on parole
20 pursuant to this section, the Board shall not consider whether the
21 prisoner will soon be eligible for release pursuant to NRS 213.1215.

22 6. The Board shall not release on parole an offender convicted
23 of an offense listed in NRS 179D.097 until the Central Repository
24 for Nevada Records of Criminal History has been provided an
25 opportunity to give the notice required pursuant to NRS 179D.475.

26 **Sec. 35.** NRS 213.133 is hereby amended to read as follows:

27 213.133 1. Except as otherwise provided in subsections 6, 7
28 and 8, the Board may delegate its authority to hear, consider and act
29 upon the parole of a prisoner and on any issue before the Board to a
30 panel consisting of:

31 (a) Two or more members of the Board, two of whom constitute
32 a quorum; or

33 (b) One member of the Board who is assisted by a case hearing
34 representative.

35 2. No action taken by any panel created pursuant to paragraph
36 (a) of subsection 1 is valid unless concurred in by a majority vote of
37 those sitting on the panel.

38 3. The decision of a panel is subject to final approval by the
39 affirmative action of a majority of the members appointed to the
40 Board. Such action may be taken at a meeting of the Board or
41 without a meeting by the delivery of written approval to the
42 Executive Secretary of the Board.

43 4. The degree of complexity of issues presented must be taken
44 into account before the Board makes any delegation of its authority
45 and before it determines the extent of a delegation.



5. The Board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.

6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:

(a) ~~Who committed a capital offense;~~
~~(b)~~ Who is serving a sentence of imprisonment for life;
~~(c)~~ (b) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;

~~(d)~~ (c) Who is a habitual criminal; or

~~(e)~~ (d) Whose sentence has been commuted by the State Board of Pardons Commissioners,

➤ must be conducted by at least three members of the Board, and action may be taken only with the concurrence of at least four members.

7. If a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chair must concur in the recommendation.

8. A member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 may recommend to the Board that a prisoner be released on parole without a meeting if:

(a) The prisoner is not serving a sentence for a crime described in subsection 6;

(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;

(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings; and

(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.

9. A recommendation made in accordance with subsection 8 is subject to final approval by the affirmative action of a majority of the members appointed to the Board. The final approval by affirmative action must not take place until the expiration of the 30-day notice period to law enforcement of the eligibility for parole of the prisoner in accordance with subsection 5 of NRS 213.1085. Such action may be taken at a meeting of the Board or without a



meeting of the Board by delivery of written approval to the Executive Secretary of the Board by a majority of the members.

Sec. 36. NRS 217.035 is hereby amended to read as follows:

217.035 "Crime" means:

1. An act or omission committed within this state which, if committed by an adult, is forbidden by law and punishable upon conviction by ~~[death,]~~ imprisonment, fine or other penal discipline; or

2. An act of international terrorism as defined in 18 U.S.C. § 2331(1) against a person.

Sec. 37. NRS 353.094 is hereby amended to read as follows:

353.094 Claims may be made against the Counties' Trial Assistance Account in the State General Fund by the board of county commissioners of any county as other claims against the State are made for jury fees, witness fees and necessary subsistence expenses attendant to any criminal trial for ~~[a-capital-offense]~~ *murder of the first degree* where:

1. It is not established that the crime was actually committed in the county where the indictment was found or the information filed;

2. The victim or victims of the crime were not residents of the county where the indictment was found or the information filed; and

3. The trial is conducted in a county other than the county in which the indictment was found or the information filed.

Sec. 38. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 621.025, ~~[176.485,]~~ 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153, ➔ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the



1 money in the Fund for Insurance Premiums is insufficient to pay the
2 claims; and

3 (d) The payment of claims which are obligations of the State
4 pursuant to NRS 535.030 arising from remedial actions taken by the
5 State Engineer when the condition of a dam becomes dangerous to
6 the safety of life or property.

7 3. The State Board of Examiners may authorize its Clerk or a
8 person designated by the Clerk, under such circumstances as it
9 deems appropriate, to approve, on behalf of the Board, the payment
10 of claims from the Reserve for Statutory Contingency Account. For
11 the purpose of exercising any authority granted to the Clerk of the
12 State Board of Examiners or to the person designated by the Clerk
13 pursuant to this subsection, any statutory reference to the State
14 Board of Examiners relating to such a claim shall be deemed to refer
15 to the Clerk of the Board or the person designated by the Clerk.

16 **Sec. 39.** NRS 453.333 is hereby amended to read as follows:

17 453.333 If the death of a person is proximately caused by a
18 controlled substance which was sold, given, traded or otherwise
19 made available to him or her by another person in violation of this
20 chapter, the person who sold, gave or traded or otherwise made the
21 substance available to him or her is guilty of murder. If convicted of
22 murder in the second degree, the person is guilty of a category A
23 felony and shall be punished as provided in subsection 5 of NRS
24 200.030. If convicted of murder in the first degree, the person is
25 guilty of a category A felony and shall be punished as provided in
26 subsection 4 of NRS 200.030 . ~~It, except that the punishment of~~
27 ~~death may be imposed only if the requirements of paragraph (a) of~~
28 ~~subsection 4 of that section have been met and if the defendant is or~~
29 ~~has previously been convicted of violating NRS 453.3385, 453.339~~
30 ~~or 453.3395 or a law of any other jurisdiction which prohibits the~~
31 ~~same conduct.]~~

32 **Sec. 40.** NRS 453.377 is hereby amended to read as follows:

33 453.377 A controlled substance may be dispensed by:

34 1. A registered pharmacist upon a legal prescription from a
35 practitioner or to a pharmacy in a correctional institution upon the
36 written order of the prescribing practitioner in charge.

37 2. A pharmacy in a correctional institution, in case of
38 emergency, upon a written order signed by the chief medical officer.

39 3. A practitioner.

40 4. A registered nurse, when the state, county, city or district
41 health officer has declared a state of emergency.

42 5. A medical intern in the course of his or her internship.

43 6. ~~[A pharmacy in an institution of the Department of~~
44 ~~Corrections to a person designated by the Director of the~~



~~Department of Corrections to administer a lethal injection to a person who has been sentenced to death.~~

~~7.]~~ A registered pharmacist from an institutional pharmacy, pursuant to regulations adopted by the Board.

Sec. 41. NRS 454.221 is hereby amended to read as follows:

454.221 1. A person who furnishes any dangerous drug except upon the prescription of a practitioner is guilty of a category D felony and shall be punished as provided in NRS 193.130, unless the dangerous drug was obtained originally by a legal prescription.

2. The provisions of this section do not apply to the furnishing of any dangerous drug by:

(a) A practitioner to his or her patients;

(b) A physician assistant licensed pursuant to chapter 630 or 633 of NRS if authorized by the Board;

(c) A registered nurse while participating in a public health program approved by the Board, or an advanced practice registered nurse who holds a certificate from the State Board of Pharmacy permitting him or her to dispense dangerous drugs;

(d) A manufacturer or wholesaler or pharmacy to each other or to a practitioner or to a laboratory under records of sales and purchases that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity; **or**

(e) A hospital pharmacy or a pharmacy so designated by a county health officer in a county whose population is 100,000 or more, or by a district health officer in any county within its jurisdiction or, in the absence of either, by the Chief Medical Officer or the Chief Medical Officer's designated Medical Director of Emergency Medical Services, to a person or agency described in subsection 3 of NRS 639.268 to stock ambulances or other authorized vehicles or replenish the stock. ~~;~~ ~~or~~

~~(f) A pharmacy in a correctional institution to a person designated by the Director of the Department of Corrections to administer a lethal injection to a person who has been sentenced to death.]~~

Sec. 42. Any regulations adopted by the State Board of Pardons Commissioners pursuant to NRS 213.085 regarding the death penalty are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after the effective date of this act.

Sec. 43. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 44. NRS 34.820, 171.194, 174.098, 175.554, 176.0919, 176.345, 176.355, 176.357, 176.365, 176.415, 176.425, 176.435, 176.445, 176.455, 176.465, 176.475, 176.485, 176.486, 176.487,



1 176.488, 176.489, 176.491, 176.492, 176.495, 176.505, 177.055,
2 177.095, 178.3971, 200.033, 200.035 and 213.080 are hereby
3 repealed.

4 **Sec. 45.** 1. This act becomes effective upon passage and
5 approval and applies retroactively to a sentence of death that has not
6 yet been executed on the effective date of this act.

7 2. The sentence of death of any person to whom this act applies
8 retroactively shall be deemed to be reduced to a sentence of life
9 without the possibility of parole on the effective date of this act.

10 3. The Director of the Department of Corrections shall take all
11 actions necessary to carry out the provisions of this section.

LEADLINES OF REPEALED SECTIONS

34.820 Procedure in cases where petitioner has been sentenced to death.

171.194 Procedure when arrest for capital offense.

174.098 Motion to declare that defendant is intellectually disabled: When authorized; procedure.

175.554 Death penalty cases: Instructions to jury; determinations; findings and verdict; hearing to set aside sentence of defendant alleged to be intellectually disabled.

176.0919 Execution stayed pending results of genetic marker analysis.

176.345 Proceedings when conviction carries death penalty.

176.355 Execution of death penalty: Method; time and place; witnesses.

176.357 Request for notification of execution of death penalty; request to attend.

176.365 Director of Department of Corrections to make return on death warrant.

176.415 When execution of death penalty may be stayed.

176.425 Sanity investigation: Filing of petition; stay of execution.

176.435 Sanity investigation: Conduct of hearing.

176.445 Execution of judgment when defendant found sane.

176.455 Suspension of execution when defendant found insane; proceedings on recovery of sanity.

176.465 Investigation of pregnancy: Procedure; hearing.

176.475 Proceedings after investigation: Execution of judgment; suspension of execution; issuance of warrant on termination of pregnancy.



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- 176.485 Costs of investigations borne by State; manner of payment.
- 176.486 Authority to enter stay of execution.
- 176.487 Determination of whether to enter stay of execution.
- 176.488 Entry of stay of execution and necessary orders.
- 176.489 Vacation of stay of execution.
- 176.491 Stay of execution following denial of appeal.
- 176.492 Dissolution of stay of execution which was improperly entered.
- 176.495 New warrant generally.
- 176.505 Order following appeal.
- 177.055 Automatic appeal in certain cases; mandatory review of death sentence by court of appeals or Supreme Court.
- 177.095 Stay of execution upon sentence of death.
- 178.3971 Appointment of defense team for defendant accused of murder of first degree.
- 200.033 Circumstances aggravating first degree murder.
- 200.035 Circumstances mitigating first degree murder.
- 213.080 Procedure when death penalty is commuted.

