

ASSEMBLY BILL NO. 440—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE COMMITTEE TO CONDUCT AN
INTERIM STUDY OF ISSUES RELATING TO PRETRIAL
RELEASE OF DEFENDANTS IN CRIMINAL CASES)

MARCH 29, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the issuance of certain citations. (BDR 14-376)

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; defining the terms “repeat offense,” “prohibited offense” and “crime of violence”; requiring certain persons to issue misdemeanor citations, traffic citations, vessel citations and wildlife citations under certain circumstances for offenses punishable as misdemeanors that do not constitute repeat offenses, crimes of violence or certain other prohibited offenses under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a peace officer, whenever any person is detained by the peace officer for any violation of an ordinance or a state law punishable as a misdemeanor and the person is not otherwise required to be taken before a magistrate, to issue the person a misdemeanor citation instead of taking the person before the proper magistrate. (NRS 171.1771) Similarly, existing law authorizes a peace officer to issue a misdemeanor citation in lieu of taking a person before a magistrate if the person is arrested by a private person for any violation of an ordinance or a state law punishable as a misdemeanor. (NRS 171.1772) Existing law, however, removes the discretion of the peace officer to issue the misdemeanor citation and requires the person to be taken before a magistrate if the identity of the person cannot be verified or the peace officer believes the person will disregard a written promise to appear in court. (NRS 171.1771, 171.1772) **Sections 6 and 7** of this bill: (1) require a peace officer to issue a misdemeanor citation for any such violation unless the violation is a repeat offense or a prohibited offense, in which



case the peace officer is authorized to issue the misdemeanor citation; and (2) expand the circumstances under which a peace officer is prohibited from issuing the misdemeanor citation to include those circumstances in which the peace officer believes the violation will continue if the person is not taken before a magistrate or the peace officer believes another person or property is in imminent danger. **Section 8** of this bill makes a conforming change related to the issuance of misdemeanor citations.

Section 3.5 of this bill defines the term "repeat offense" for the purposes of **sections 6 and 7**. **Section 3.3** of this bill defines the term "prohibited offense" for the purposes of **sections 6 and 7**. Additionally, **section 3** of this bill defines the term "crime of violence" for the purposes of **sections 3.3, 6, 7 and 9-14** of this bill. **Section 4** of this bill makes a conforming change related to the proper placement of **sections 3, 3.3 and 3.5** in the Nevada Revised Statutes.

Existing law provides that whenever any person is halted by a peace officer for a violation of certain traffic laws and is not otherwise required to be taken before a magistrate, the person may be given a traffic citation or be taken before the proper magistrate. (NRS 484A.730) **Section 24** of this bill revises the discretionary issuance of such citations by instead requiring a peace officer to issue a traffic citation for an offense punishable as misdemeanor that does not constitute a "repeat offense" or a "prohibited offense," as defined in **section 24**.

Sections 19, 20, 22 and 23 of this bill make conforming changes related to the requirement to issue traffic citations for traffic offenses punishable as misdemeanors that do not constitute repeat offenses or prohibited offenses.

Existing law authorizes a peace officer to issue a traffic citation or a misdemeanor citation at the scene of a traffic crash under certain circumstances. (NRS 484A.660) **Section 21** of this bill revises the discretionary issuance of such citations by requiring a peace officer to issue a traffic citation in accordance with the standards provided in **section 24** or a misdemeanor citation in accordance with the standards provided in **section 6**.

Existing law authorizes a game warden, sheriff or peace officer to issue a citation for certain offenses relating to vessels. (NRS 488.920) While retaining the existing discretionary issuance of citations for offenses relating to vessels that are punishable as felonies or gross misdemeanors, **section 25** of this bill requires a game warden, sheriff or peace officer to issue a citation for such an offense punishable as a misdemeanor unless the offense is a repeat offense or a prohibited offense, in which case the game warden, sheriff or peace officer is authorized to issue the citation. **Section 25** defines the terms "prohibited offense" and "repeat offense" for the purpose of **section 25**.

Existing law also authorizes a game warden to issue a citation for certain offenses relating to wildlife. (NRS 501.386) While retaining the existing discretionary issuance of citations for offenses relating to wildlife that are punishable as felonies or gross misdemeanors, **section 26** of this bill requires a game warden to issue a citation for an offense punishable as a misdemeanor unless the offense is a repeat offense or a crime of violence, in which case the game warden is authorized to issue the citation.



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

Section 1. Chapter 169 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 3.3 and 3.5 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. *“Crime of violence” has the meaning ascribed to it in NRS 200.408.*

Sec. 3.3. 1. *“Prohibited offense” means:*

(a) A violation of a temporary order for protection;

(b) A violation of NRS 200.575;

(c) A crime of violence;

(d) A violation of NRS 483.490; or

(e) A violation of NRS 483.560.

2. *As used in this section, “temporary order for protection” means an order for protection which may be issued by a court without affording the adverse party notice and an opportunity to be heard.*

Sec. 3.5. *“Repeat offense” means an offense for which the person has previously been arrested, convicted or issued a citation.*

Sec. 4. NRS 169.045 is hereby amended to read as follows:

169.045 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 169.049 to 169.205, inclusive, *and sections 3, 3.3 and 3.5 of this act* have the meanings ascribed to them in those sections.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 171.1771 is hereby amended to read as follows:

171.1771 ~~Whenever~~

1. *Except as otherwise provided in subsection 2, whenever any person is detained by a peace officer for any violation of a county, city or town ordinance or a state law which is punishable as a misdemeanor and the person is not required to be taken before a magistrate, the person ~~shall,~~ must be given a misdemeanor citation unless the violation constitutes a repeat offense or a prohibited offense in which case, the person may,* in the discretion of the peace officer, either be given a misdemeanor citation ~~or~~ or be taken without unnecessary delay before the proper magistrate. ~~Any such person shall~~

2. *A person described in subsection 1 must be taken before the proper magistrate when ~~the~~:*

(a) The person does not furnish satisfactory evidence of identity ~~or when the~~; or

(b) The peace officer has reasonable ~~and probable~~ grounds to believe ~~the~~ that:



(1) *The* person will disregard a written promise to appear in court ~~[H]~~;

(2) *The violation will continue; or*

(3) *Another person or property is in imminent danger.*

Sec. 7. NRS 171.1772 is hereby amended to read as follows:

171.1772 1. Whenever any person is arrested by a private person, as provided in NRS 171.126, for any violation of a county, city or town ordinance or state law which is punishable as a misdemeanor, such person arrested ~~[may]~~ *must* be issued a misdemeanor citation by a peace officer in lieu of being immediately taken before a magistrate by the peace officer ~~[if:]~~ *unless the violation constitutes a repeat offense or a prohibited offense, in which case the person arrested may be issued the misdemeanor citation or be immediately taken before a magistrate by the peace officer.*

2. *The citation described in subsection 1 must not be issued unless:*

~~[H:]~~ (a) The person arrested furnishes satisfactory evidence of identity; and

~~[2:]~~ (b) The peace officer has reasonable grounds to believe that ~~[the]~~ :

(1) *The* person arrested will keep a written promise to appear in court ~~[H]~~;

(2) *The violation will cease; and*

(3) *Another person or property is not in imminent danger.*

Sec. 8. NRS 171.1773 is hereby amended to read as follows:

171.1773 1. Whenever a person is detained by a peace officer for any violation of a county, city or town ordinance or a state law which is punishable as a misdemeanor and the person is not taken before a magistrate as required or permitted by NRS 171.177, 171.1771 or 171.1772, the peace officer ~~[may]~~ *must* prepare a misdemeanor citation manually or electronically in the form of a complaint issuing in the name of "The State of Nevada" or in the name of the respective county, city or town, containing a notice to appear in court, the name and address of the person, the state registration number of the person's vehicle, if any, the offense charged, including a brief description of the offense and the NRS or ordinance citation, the time when and place where the person is required to appear in court, and such other pertinent information as may be necessary. The citation must be signed by the peace officer. If the citation is prepared electronically, the officer shall sign the copy of the citation that is delivered to the person charged with the violation.



2. The time specified in the notice to appear must be at least 5 days after the alleged violation unless the person charged with the violation demands an earlier hearing.

3. The place specified in the notice must be before a magistrate, as designated in NRS 171.178 and 171.184.

4. The person charged with the violation may give a written promise to appear in court by signing at least one copy of the misdemeanor citation prepared by the peace officer, in which event the peace officer shall deliver a copy of the citation to the person, and thereupon the peace officer shall not take the person into physical custody for the violation. If the citation is prepared electronically, the officer shall deliver the signed copy of the citation to the person and shall indicate on the electronic record of the citation whether the person charged gave a written promise to appear. A copy of the citation that is signed by the person charged or the electronic record of the citation which indicates that the person charged gave a written promise to appear suffices as proof of service.

Sec. 9. NRS 174.031 is hereby amended to read as follows:

174.031 1. At the arraignment of a defendant in justice court or municipal court, but before the entry of a plea, the court may determine whether the defendant is eligible for assignment to a preprosecution diversion program established pursuant to NRS 174.032. The court shall receive input from the prosecuting attorney and the attorney for the defendant, if any, whether the defendant would benefit from and is eligible for assignment to the program.

2. A defendant may be determined to be eligible by the court for assignment to a preprosecution diversion program if the defendant:

(a) Is charged with a misdemeanor other than:

(1) A crime of violence ; ~~as defined in NRS 200.408;~~

(2) Vehicular manslaughter as described in NRS 484B.657;

(3) Driving under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 484C.130; or

(4) A minor traffic offense; and

(b) Has not previously been:

(1) Convicted of violating any criminal law other than a minor traffic offense; or

(2) Ordered by a court to complete a preprosecution diversion program in this State.

3. If a defendant is determined to be eligible for assignment to a preprosecution diversion program pursuant to subsection 2, the justice court or municipal court may order the defendant to complete the program pursuant to subsection 5 of NRS 174.032.



4. A defendant has no right to complete a preprosecution diversion program or to appeal the decision of the justice court or municipal court relating to the participation of the defendant in such a program.

Sec. 10. NRS 176A.510 is hereby amended to read as follows:

176A.510 1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation or parole. The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision, the severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of probation or parole.

6. The Division may not seek revocation of probation or parole for a technical violation of the conditions of probation or parole until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

7. As used in this section:



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(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.

(b) "Responsivity factors" has the meaning ascribed to it in NRS 213.107.

(c) "Technical violation" means any alleged violation of the conditions of probation or parole that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence ~~as defined in NRS 200.408~~ that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised.

➔ The term does not include termination from a specialty court program.

Sec. 11. NRS 176A.630 is hereby amended to read as follows:

176A.630 1. If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 and system of graduated sanctions adopted pursuant to NRS 176A.510, as applicable, and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. If the court finds that the probationer committed a violation of a condition of probation by committing a new felony or gross misdemeanor, battery which



1 constitutes domestic violence pursuant to NRS 200.485, violation of
2 NRS 484C.110 or 484C.120, crime of violence ~~as defined in NRS~~
3 ~~200.408~~ that is punishable as a misdemeanor, harassment pursuant to
4 NRS 200.571, stalking or aggravated stalking pursuant to NRS
5 200.575, violation of a stay away order involving a natural person
6 who is the victim of the crime for which the probationer is being
7 supervised, violation of a temporary or extended order for protection
8 against domestic violence issued pursuant to NRS 33.017 to 33.100,
9 inclusive, a restraining order or injunction that is in the nature of a
10 temporary or extended order for protection against domestic
11 violence issued in an action or proceeding brought pursuant to title
12 11 of NRS, a temporary or extended order for protection against
13 stalking, aggravated stalking or harassment issued pursuant to
14 NRS 200.591 or a temporary or extended order for protection
15 against sexual assault pursuant to NRS 200.378 or by absconding,
16 the court may:

17 (a) Continue or revoke the probation or suspension of sentence;

18 (b) Order the probationer to a term of residential confinement
19 pursuant to NRS 176A.660;

20 (c) Order the probationer to undergo a program of regimental
21 discipline pursuant to NRS 176A.780;

22 (d) Cause the sentence imposed to be executed; or

23 (e) Modify the original sentence imposed by reducing the term
24 of imprisonment and cause the modified sentence to be executed.
25 The court shall not make the term of imprisonment less than the
26 minimum term of imprisonment prescribed by the applicable penal
27 statute. If the Chief Parole and Probation Officer recommends that
28 the sentence of a probationer be modified and the modified sentence
29 be executed, the Chief Parole and Probation Officer shall provide
30 notice of the recommendation to any victim of the crime for which
31 the probationer was convicted who has requested in writing to be
32 notified and who has provided a current address to the Division. The
33 notice must inform the victim that he or she has the right to submit
34 documents to the court and to be present and heard at the hearing to
35 determine whether the sentence of a probationer who has violated a
36 condition of probation should be modified. The court shall not
37 modify the sentence of a probationer and cause the sentence to be
38 executed until it has confirmed that the Chief Parole and Probation
39 Officer has complied with the provisions of this paragraph. The
40 Chief Parole and Probation Officer must not be held responsible
41 when such notification is not received by the victim if the victim has
42 not provided a current address. All personal information, including,
43 but not limited to, a current or former address, which pertains to a
44 victim and which is received by the Division pursuant to this
45 paragraph is confidential.



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2. If the court finds that the probationer committed one or more technical violations of the conditions of probation, the court may:

(a) Continue the probation or suspension of sentence;

(b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

(c) Temporarily revoke the probation or suspension of sentence and impose a term of imprisonment of not more than:

(1) Thirty days for the first temporary revocation;

(2) Ninety days for the second temporary revocation; or

(3) One hundred and eighty days for the third temporary revocation; or

(d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a fourth or subsequent revocation.

3. Notwithstanding any other provision of law, a probationer who is arrested and detained for committing a technical violation of the conditions of probation must be brought before the court not later than 15 calendar days after the date of arrest and detention. If the person is not brought before the court within 15 calendar days, the probationer must be released from detention and returned to probation status. Following a probationer's release from detention, the court may subsequently hold a hearing to determine if a technical violation has occurred. If the court finds that such a technical violation occurred, the court may:

(a) Continue probation and modify the terms and conditions of probation; or

(b) Fully or temporarily revoke probation in accordance with the provisions of subsection 2.

4. The commission of one of the following acts by a probationer must not, by itself, be used as the only basis for the revocation of probation:

(a) Consuming any alcoholic beverage.

(b) Testing positive on a drug or alcohol test.

(c) Failing to abide by the requirements of a mental health or substance use treatment program.

(d) Failing to seek and maintain employment.

(e) Failing to pay any required fines or fees.

(f) Failing to report any changes in residence.

5. As used in this section:

(a) "Absconding" means that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.

(b) "Technical violation" means any alleged violation of the conditions of probation that does not constitute absconding and is not the commission of a:



- (1) New felony or gross misdemeanor;
- (2) Battery which constitutes domestic violence pursuant to NRS 200.485;
- (3) Violation of NRS 484C.110 or 484C.120;
- (4) Crime of violence ~~as defined in NRS 200.408~~ that is punishable as a misdemeanor;
- (5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;
- (6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or
- (7) Violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised.

➤ The term does not include termination from a specialty court program.

Sec. 12. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

(a) A category A felony, a crime of violence ~~pursuant to NRS 200.408~~ or residential burglary pursuant to NRS 205.060 after 10 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(b) Except as otherwise provided in paragraphs (a) and (e), a category B, C or D felony after 5 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 2 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Except as otherwise provided in paragraph (e), any gross misdemeanor after 2 years from the date of release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018



1 other than a felony, after 7 years from the date of release from actual
2 custody or from the date when the person is no longer under a
3 suspended sentence, whichever occurs later;

4 (f) Except as otherwise provided in paragraph (e), if the offense
5 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
6 harassment pursuant to NRS 200.571, stalking pursuant to NRS
7 200.575 or a violation of a temporary or extended order for
8 protection, after 2 years from the date of release from actual custody
9 or from the date when the person is no longer under a suspended
10 sentence, whichever occurs later; or

11 (g) Any other misdemeanor after 1 year from the date of release
12 from actual custody or from the date when the person is no longer
13 under a suspended sentence, whichever occurs later.

14 2. A petition filed pursuant to subsection 1 must:

15 (a) Be accompanied by the petitioner's current, verified records
16 received from the Central Repository for Nevada Records of
17 Criminal History;

18 (b) If the petition references NRS 453.3365, include a certificate
19 of acknowledgment or the disposition of the proceedings for the
20 records to be sealed from all agencies of criminal justice which
21 maintain such records;

22 (c) Include a list of any other public or private agency, company,
23 official or other custodian of records that is reasonably known to the
24 petitioner to have possession of records of the conviction and to
25 whom the order to seal records, if issued, will be directed; and

26 (d) Include information that, to the best knowledge and belief of
27 the petitioner, accurately and completely identifies the records to be
28 sealed, including, without limitation, the:

29 (1) Date of birth of the petitioner;

30 (2) Specific conviction to which the records to be sealed
31 pertain; and

32 (3) Date of arrest relating to the specific conviction to which
33 the records to be sealed pertain.

34 3. Upon receiving a petition pursuant to this section, the court
35 shall notify the law enforcement agency that arrested the petitioner
36 for the crime and the prosecuting attorney, including, without
37 limitation, the Attorney General, who prosecuted the petitioner for
38 the crime. The prosecuting attorney and any person having relevant
39 evidence may testify and present evidence at any hearing on the
40 petition.

41 4. If the prosecuting attorney who prosecuted the petitioner for
42 the crime stipulates to the sealing of the records after receiving
43 notification pursuant to subsection 3 and the court makes the
44 findings set forth in subsection 5, the court may order the sealing of
45 the records in accordance with subsection 5 without a hearing. If the



1 prosecuting attorney does not stipulate to the sealing of the records,
2 a hearing on the petition must be conducted.

3 5. If the court finds that, in the period prescribed in subsection
4 1, the petitioner has not been charged with any offense for which the
5 charges are pending or convicted of any offense, except for minor
6 moving or standing traffic violations, the court may order sealed all
7 records of the conviction which are in the custody of any agency of
8 criminal justice or any public or private agency, company, official
9 or other custodian of records in the State of Nevada, and may also
10 order all such records of the petitioner returned to the file of the
11 court where the proceeding was commenced from, including,
12 without limitation, the Federal Bureau of Investigation and all other
13 agencies of criminal justice which maintain such records and which
14 are reasonably known by either the petitioner or the court to have
15 possession of such records.

16 6. A person may not petition the court to seal records relating
17 to a conviction of:

18 (a) A crime against a child;

19 (b) A sexual offense;

20 (c) Invasion of the home with a deadly weapon pursuant to
21 NRS 205.067;

22 (d) A violation of NRS 484C.110 or 484C.120 that is punishable
23 as a felony pursuant to paragraph (c) of subsection 1 of
24 NRS 484C.400;

25 (e) A violation of NRS 484C.430;

26 (f) A homicide resulting from driving or being in actual physical
27 control of a vehicle while under the influence of intoxicating liquor
28 or a controlled substance or resulting from any other conduct
29 prohibited by NRS 484C.110, 484C.130 or 484C.430;

30 (g) A violation of NRS 488.410 that is punishable as a felony
31 pursuant to NRS 488.427; or

32 (h) A violation of NRS 488.420 or 488.425.

33 7. If the court grants a petition for the sealing of records
34 pursuant to this section, upon the request of the person whose
35 records are sealed, the court may order sealed all records of the civil
36 proceeding in which the records were sealed.

37 8. As used in this section:

38 (a) "Crime against a child" has the meaning ascribed to it in
39 NRS 179D.0357.

40 (b) "Sexual offense" means:

41 (1) Murder of the first degree committed in the perpetration
42 or attempted perpetration of sexual assault or of sexual abuse or
43 sexual molestation of a child less than 14 years of age pursuant to
44 paragraph (b) of subsection 1 of NRS 200.030.

45 (2) Sexual assault pursuant to NRS 200.366.



(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence, ~~[pursuant to NRS 200.408,]~~ if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(17) An attempt to commit an offense listed in this paragraph.

Sec. 13. NRS 179.247 is hereby amended to read as follows:

179.247 1. If a person has been convicted of any offense listed in subsection 2, the person may petition the court in which he or she was convicted or, if the person wishes to file more than one petition and would otherwise need to file a petition in more than one court, the district court, for an order:

(a) Vacating the judgment; and

(b) Sealing all documents, papers and exhibits in the person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order.

2. A person may file a petition pursuant to subsection 1 if the person was convicted of:



(a) A violation of NRS 201.354, for engaging in prostitution or solicitation for prostitution, provided that the person was not alleged to be a customer of a prostitute;

(b) A crime under the laws of this State, other than a crime of violence; or

(c) A violation of a county, city or town ordinance, for loitering for the purpose of solicitation or prostitution.

3. A petition filed pursuant to subsection 1 must satisfy the requirements of NRS 179.245.

4. The court may grant a petition filed pursuant to subsection 1 if:

(a) The petitioner was convicted of a violation of an offense described in subsection 2;

(b) The participation of the petitioner in the offense was the result of the petitioner having been a victim of:

(1) Trafficking in persons as described in the Trafficking Victims Protection Act of 2000, 22 U.S.C. §§ 7101 et seq.; or

(2) Involuntary servitude as described in NRS 200.463 or 200.4631; and

(c) The petitioner files a petition pursuant to subsection 1 with due diligence after the petitioner has ceased being a victim of trafficking or involuntary servitude or has sought services for victims of such trafficking or involuntary servitude.

5. Before the court decides whether to grant a petition filed pursuant to subsection 1, the court shall:

(a) Notify the Central Repository for Nevada Records of Criminal History, the Office of the Attorney General and each office of the district attorney and law enforcement agency in the county in which the petitioner was convicted and allow the prosecuting attorney who prosecuted the petitioner for the crime and any person to testify and present evidence on behalf of any such entity; and

(b) Take into consideration any reasonable concerns for the safety of the defendant, family members of the defendant or other victims that may be jeopardized by the granting of the petition.

6. If the prosecuting attorney who prosecuted the petitioner for the crime stipulates to vacating the judgment of the petitioner and sealing all documents, papers and exhibits related to the case after receiving notification pursuant to subsection 5 and the court makes the findings set forth in subsection 4, the court may vacate the judgment and seal all documents, papers and exhibits in accordance with subsection 7 without a hearing. If the prosecuting attorney does not stipulate to vacating the judgment and sealing the documents, papers and exhibits, a hearing on the petition must be conducted.

7. If the court grants a petition filed pursuant to subsection 1, the court shall:



(a) Vacate the judgment and dismiss the accusatory pleading;
and

(b) Order sealed all documents, papers and exhibits in the petitioner's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order.

8. If a petition filed pursuant to subsection 1 does not satisfy the requirements of NRS 179.245 or the court determines that the petition is otherwise deficient with respect to the sealing of the petitioner's record, the court may enter an order to vacate the judgment and dismiss the accusatory pleading if the petitioner satisfies all requirements necessary for the judgment to be vacated.

9. If the court enters an order pursuant to subsection 8, the court shall also order sealed the records of the petitioner which relate to the judgment being vacated in accordance with paragraph (b) of subsection 7, regardless of whether any records relating to other convictions are ineligible for sealing either by operation of law or because of a deficiency in the petition.

~~10. As used in this section, "crime of violence" means:~~

~~—(a) Any offense involving the use or threatened use of force or violence against the person or property of another; or~~

~~—(b) Any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.]~~

Sec. 14. NRS 179D.097 is hereby amended to read as follows:

179D.097 1. "Sexual offense" means any of the following offenses:

(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(b) Sexual assault pursuant to NRS 200.366.

(c) Statutory sexual seduction pursuant to NRS 200.368.

(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this subsection.

(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence, ~~[pursuant to NRS 200.408,]~~ if the crime of violence is an offense listed in this section.

(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.



(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Open or gross lewdness pursuant to NRS 201.210.

(k) Indecent or obscene exposure pursuant to NRS 201.220.

(l) Lewdness with a child pursuant to NRS 201.230.

(m) Sexual penetration of a dead human body pursuant to NRS 201.450.

(n) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(o) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

(p) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

(q) Sex trafficking pursuant to NRS 201.300.

(r) Any other offense that has an element involving a sexual act or sexual conduct with another.

(s) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (r), inclusive.

(t) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

(u) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(v) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(3) A court having jurisdiction over juveniles.

2. Except for the offenses described in paragraphs (n) and (o) of subsection 1, the term does not include an offense involving consensual sexual conduct if the victim was:

(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or



(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 17.5. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 484A.615 is hereby amended to read as follows:

484A.615 1. A court having jurisdiction over an offense for which a traffic citation ~~{may}~~ *must* be issued pursuant to NRS 484A.630 or its traffic violations bureau may establish a system by which, except as otherwise provided in subsection 5, the court or traffic violations bureau may allow a person who has been issued a traffic citation that is filed with the court or traffic violations bureau to make a plea and state his or her defense or any mitigating circumstances by mail, by electronic mail, over the Internet or by other electronic means.

2. Except as otherwise provided in subsection 5, if a court or traffic violations bureau has established a system pursuant to subsection 1, a person who has been issued a traffic citation that is filed with the court or traffic violations bureau may, if allowed by the court and in lieu of making a plea and statement of his or her defense or any mitigating circumstances in court, make a plea and state his or her defense or any mitigating circumstances by using the system. Any such plea and statement must be received by the court before the date on which the person is required to appear in court pursuant to the traffic citation.

3. If a court or traffic violations bureau allows an eligible person to whom a traffic citation is issued to use a system established pursuant to subsection 1 to make a plea and state his or her defense or any mitigating circumstances and the person chooses to make a plea and state his or her defense or any mitigating circumstances by using such a system, the person waives ~~{his or her}~~ *any relevant constitutional right, including, without limitation, the right to a trial, {and} the right to confront any witnesses {-} and the right to counsel, as applicable.*

4. Any system established pursuant to subsection 1 must:

(a) For the purpose of authenticating that the person making the plea and statement of his or her defense or any mitigating circumstances is the person to whom the traffic citation was issued, be capable of requiring the person to submit any of the following information, at the discretion of the court or traffic violations bureau:

(1) The traffic citation number;



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- (2) The name and address of the person;
- (3) The state registration number of the person's vehicle, if any;
- (4) The number of the driver's license of the person, if any;
- (5) The offense charged; or
- (6) Any other information required by any rules adopted by the Nevada Supreme Court pursuant to subsection 6.

(b) Provide notice to each person who uses the system to make a plea and statement of his or her defense or any mitigating circumstances that the person waives ~~[his or her]~~ *any relevant constitutional right, including, without limitation, the right to a trial, [and] the right to confront any witnesses [.] and the right to counsel, as applicable.*

(c) If a plea and statement of the defense or mitigating circumstances is submitted by electronic mail, over the Internet or by other electronic means, confirm receipt of the plea and statement or make available to the person making the plea a copy of the plea and statement.

5. A person who has been issued a traffic citation for any of the following offenses may not make a plea and state his or her defense or any mitigating circumstances by using a system established pursuant to subsection 1:

- (a) Aggressive driving in violation of NRS 484B.650;
- (b) Reckless driving in violation of NRS 484B.653;
- (c) Vehicular manslaughter in violation of NRS 484B.657; or
- (d) Driving, operating or being in actual physical control of a vehicle ~~[or a vessel under power or sail]~~ while under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110 ~~[.] or 484C.120, [or 488.410,]~~ as applicable.

6. The Nevada Supreme Court may adopt rules not inconsistent with the laws of this State to carry out the provisions of this section.

Sec. 20. NRS 484A.630 is hereby amended to read as follows:

484A.630 1. Whenever a person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS ~~[punishable as a misdemeanor]~~ and is not taken before a magistrate as required or permitted by NRS 484A.720 and 484A.730, the peace officer ~~[may]~~ *must* prepare a traffic citation manually or electronically in the form of a complaint issuing in the name of "The State of Nevada," containing a notice to appear in court, the name and address of the person, the state registration number of the person's vehicle, if any, the number of the person's driver's license, if any, the offense charged, including a brief description of the offense and the NRS citation, the time and place when and where the person is required to appear in court, and such other pertinent information as may be necessary. The peace officer may also



request, and the person may provide, the electronic mail address and mobile telephone number of the person for the purpose of enabling the court in which the person is required to appear to communicate with the person. If the peace officer requests such information, the peace officer shall expressly inform the person that providing such information is voluntary and, if the person provides such information, the person thereby gives his or her consent for the court to communicate with the person through such means. The peace officer shall sign the citation and deliver a copy of the citation to the person charged with the violation. If the citation is prepared electronically, the peace officer shall sign the copy of the citation that is delivered to the person charged with the violation.

2. The time specified in the notice to appear must be at least 5 days after the alleged violation.

3. The place specified in the notice to appear must be before a magistrate, as designated in NRS 484A.750.

4. The person charged with the violation may give his or her written promise to appear in court by signing or physically receiving at least one copy of the traffic citation prepared by the peace officer and thereupon the peace officer shall not take the person into physical custody for the violation. If the citation is prepared electronically, the peace officer shall indicate on the electronic record of the citation whether the person charged gave his or her written promise to appear. A copy of the citation that is signed by the person charged or the electronic record of the citation which indicates that the person charged gave his or her written promise to appear suffices as proof of service.

5. If the person charged with the violation refuses to sign a copy of the traffic citation but physically receives a copy of the citation delivered by the peace officer:

(a) The receipt shall be deemed personal service of the notice to appear in court;

(b) A copy of the citation signed by the peace officer suffices as proof of service; and

(c) The peace officer shall not take the person into physical custody for the violation.

Sec. 21. NRS 484A.660 is hereby amended to read as follows:

484A.660 ~~[Except for felonies and those offenses set forth in paragraphs (a) to (e), inclusive, of subsection 1 of NRS 484A.710,]~~
When, based upon the personal investigation of a peace officer at the scene of a traffic crash, ~~[may issue a traffic citation, as provided in NRS 484A.630, or a misdemeanor citation, as provided in NRS 171.1773, to any person involved in the crash when, based upon personal investigation,]~~ the peace officer has reasonable and probable grounds to believe that ~~[the]~~ a person has committed any



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offense pursuant to the provisions of chapters 482 to 486, inclusive, or 706 of NRS in connection with the crash ~~[]~~, *the peace officer must determine whether to issue, as applicable:*

1. A traffic citation in accordance with the standards provided in NRS 484A.730; or

2. A misdemeanor citation in accordance with the standards provided in NRS 171.1771, if the offense is punishable as a misdemeanor.

Sec. 22. NRS 484A.710 is hereby amended to read as follows:

484A.710 1. Any peace officer may, without a warrant, arrest a person if the officer has reasonable cause for believing that the person has committed any of the following offenses:

(a) Homicide by vehicle;

(b) A violation of NRS 484C.110 or 484C.120;

(c) A violation of NRS 484C.430;

(d) A violation of NRS 484C.130;

(e) Failure to stop, give information or render reasonable assistance in the event of a crash resulting in death or personal injuries in violation of NRS 484E.010 or 484E.030;

(f) Failure to stop or give information in the event of a crash resulting in damage to a vehicle or to other property legally upon or adjacent to a highway in violation of NRS 484E.020 or 484E.040;

(g) Reckless driving;

(h) Driving a motor vehicle on a highway or on premises to which the public has access at a time when the person's driver's license has been cancelled, revoked or suspended; or

(i) Driving a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person pursuant to NRS 483.490.

2. Whenever any person is arrested as authorized in this section, the person must be taken without unnecessary delay before the proper magistrate as specified in NRS 484A.750 . ~~[, except that in the case of either of the offenses designated in paragraphs (f) and (g) of subsection 1, a peace officer has the same discretion as is provided in other cases in NRS 484A.730.]~~

Sec. 23. NRS 484A.720 is hereby amended to read as follows:

484A.720 Whenever any person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS , ~~[not amounting to a gross misdemeanor or felony,]~~ the person shall be taken without unnecessary delay before the proper magistrate, as specified in NRS 484A.750, in ~~[either of]~~ the following cases:

1. When the person demands an immediate appearance before a magistrate; ~~[or]~~

2. When the person does not furnish satisfactory evidence of identity; or



3. In any other event when the person is issued a traffic citation ~~[by an authorized person]~~ and refuses to sign or take physical delivery of a copy of the traffic citation.

Sec. 24. NRS 484A.730 is hereby amended to read as follows:

484A.730 1. Whenever any person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS *punishable as a misdemeanor* and is not required to be taken before a magistrate, the person ~~[may,]~~ *must be given a traffic citation unless the violation constitutes a repeat offense or a prohibited offense, in which case the person may,* in the discretion of the peace officer, either be given a traffic citation [,] or be taken without unnecessary delay before the proper magistrate. ~~[The person must be taken before the magistrate in any of the following cases:~~

~~— 1. When the person does not furnish satisfactory evidence of identity or when the peace officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court or a notice to appear in court;]~~

~~2. [When the person is charged with a violation of NRS 484D.580 relating to the refusal of a driver of a vehicle to submit the vehicle to an inspection and test;~~

~~— 3. When the person is charged with a violation of NRS 484D.675 relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom; or~~

~~— 4. When the person is charged with a violation of NRS 484C.110 or 484C.120, unless the person is incapacitated and is being treated for injuries at the time the peace officer would otherwise be taking the person before the magistrate.] As used in this section:~~

(a) *“Prohibited offense” means:*

(1) *A violation of NRS 484B.653;*

(2) *A violation of NRS 484C.110;*

(3) *A violation of NRS 484C.120;*

(4) *A violation of NRS 484E.020;*

(5) *A violation of NRS 484E.030;*

(6) *A violation of NRS 484E.040; or*

(7) *A crime of violence, as defined in NRS 200.408.*

(b) *“Repeat offense” means an offense for which the person has previously been arrested, convicted or issued a citation.*

Sec. 25. NRS 488.920 is hereby amended to read as follows:

488.920 ~~[Whenever]~~

1. *Except as otherwise provided in subsection 2, whenever* any person is halted by a game warden, sheriff or peace officer for any violation of this chapter, the person ~~[shall,]~~ :



(a) *Must, except as otherwise provided in paragraph (b), be given a citation, if the violation is punishable as a misdemeanor; or*

(b) *May, in the discretion of the game warden, sheriff or peace officer either be given a citation or be taken without unnecessary delay before the proper magistrate ~~[The person shall]~~, if the violation is punishable as:*

(1) *A felony or gross misdemeanor; or*

(2) *A misdemeanor that constitutes a repeat offense or a prohibited offense.*

2. *A person described in subsection 1 must be taken before the proper magistrate in either of the following cases:*

~~[1-]~~ (a) When the person does not furnish satisfactory evidence of identity; or

~~[2-]~~ (b) When the game warden, sheriff or peace officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

3. *As used in this section:*

(a) *"Prohibited offense" means:*

(1) *A crime of violence as defined in NRS 200.408.*

(2) *A violation of NRS 488.410.*

(b) *"Repeat offense" means an offense for which the person has previously been arrested, convicted or issued a citation.*

Sec. 26. NRS 501.386 is hereby amended to read as follows:

501.386 1. Except as otherwise provided in *subsection 2 and* NRS 501.382, whenever any person is halted by a game warden for any violation of this title, the person ~~[must,]~~ :

(a) *Must, except as otherwise provided in paragraph (b), be given a citation, if the violation is punishable as a misdemeanor; or*

(b) *May, in the discretion of the game warden, either be given a citation or be taken without unnecessary delay before the proper magistrate ~~[The person must]~~, if the violation is punishable as:*

(1) *A felony or gross misdemeanor; or*

(2) *A misdemeanor that constitutes a repeat offense or a crime of violence.*

2. *A person described in subsection 1 must be taken before the magistrate in either of the following cases:*

~~[1-]~~ (a) When the person does not furnish satisfactory evidence of identity; or

~~[2-]~~ (b) When the game warden has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

3. *As used in this section:*



- 1 (a) *“Crime of violence” has the meaning ascribed to it in*
- 2 *NRS 200.408.*
- 3 (b) *“Repeat offense” means an offense for which the person*
- 4 *has previously been arrested, convicted or issued a citation.*

