

NEVADA LEGISLATURE

Eighty-First Session, 2021

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND FOURTEENTH DAY

CARSON CITY (Tuesday), May 25, 2021

Assembly called to order at 12:59 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Bruce Henderson.

Lord, as I walked into this room yesterday, several people mentioned how very busy and hectic everything is right now. I thought a moment of quiet might be helpful. Father, please hear us in our stillness.

I pray in the Name of the One who said, Peace I leave with you. My peace I give to you.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 34, 438, 443, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, to which was referred Senate Concurrent Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

HOWARD WATTS, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 484, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 24, 2021

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 96, 274, 291, 347, 366, 390, 420, 445, 454.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 14.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 638 to Senate Bill No. 4; Assembly Amendment No. 637 to Senate Bill No. 44; Assembly Amendment No. 535 to Senate Bill No. 49; Assembly Amendment No. 713 to Senate Bill No. 67; Assembly Amendment No. 628 to Senate Bill No. 75; Assembly Amendment No. 741 to Senate Bill No. 77; Assembly Amendment No. 564 to Senate Bill No. 103; Assembly Amendment No. 732 to Senate Bill No. 109; Assembly Amendment No. 715 to Senate Bill No. 150; Assembly Amendment No. 502 to Senate Bill No. 173; Assembly Amendment No. 634 to Senate Bill No. 186; Assembly Amendment No. 612 to Senate Bill No. 188; Assembly Amendment No. 565 to Senate Bill No. 196; Assembly Amendment No. 566 to Senate Bill No. 209; Assembly Amendment No. 580 to Senate Bill No. 215; Assembly Amendment No. 632 to Senate Bill No. 217; Assembly Amendment No. 530 to Senate Bill No. 222; Assembly Amendment No. 567 to Senate Bill No. 229; Assembly Amendment No. 516 to Senate Bill No. 245; Assembly Amendment No. 515 to Senate Bill No. 248; Assembly Amendment No. 753 to Senate Bill No. 249; Assembly Amendment No. 631 to Senate Bill No. 269; Assembly Amendment No. 532 to Senate Bill No. 275; Assembly Amendment No. 708 to Senate Bill No. 283; Assembly Amendment No. 721 to Senate Bill No. 288; Assembly Amendment No. 527 to Senate Bill No. 294; Assembly Amendments Nos. 630, 751 to Senate Bill No. 307; Assembly Amendment No. 711 to Senate Bill No. 320; Assembly Amendment No. 570 to Senate Bill No. 327; Assembly Amendment No. 614 to Senate Bill No. 329; Assembly Amendment No. 607 to Senate Bill No. 344; Assembly Amendment No. 581 to Senate Bill No. 352; Assembly Amendment No. 582 to Senate Bill No. 354; Assembly Amendment No. 573 to Senate Bill No. 383; Assembly Amendment No. 574 to Senate Bill No. 387; Assembly Amendment No. 754 to Senate Bill No. 391; Assembly Amendment No. 613 to Senate Bill No. 396; Assembly Amendment No. 517 to Senate Bill No. 404; Assembly Amendment No. 549 to Senate Bill No. 406.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 25, 2021

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 61, Amendment No. 750; Assembly Bill No. 459, Amendment No. 755, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 27, 416, 455.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 537 to Senate Bill No. 95; Assembly Amendment No. 601 to Senate Bill No. 166; Assembly Amendment No. 500 to Senate Bill No. 177; Assembly Amendment No. 636 to Senate Bill No. 179; Assembly Amendment No. 633 to Senate Bill No. 190; Assembly Amendments Nos. 602, 687 to Senate Bill No. 203; Assembly Amendment No. 529 to Senate Bill No. 237; Assembly Amendment No. 514 to Senate Bill No. 260; Assembly Amendment No. 569 to Senate Bill No. 293; Assembly Amendment No. 510 to Senate Bill No. 332; Assembly Amendment No. 526 to Senate Bill No. 360.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 640 to Senate Bill No. 328.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 177.

The following Senate amendment was read:

Amendment No. 522.

AN ACT relating to pharmacy; requiring certain pharmacies to provide **certain** information regarding a prescription in a language other than English under certain circumstances; requiring such pharmacies to post notice of the rights of a patient to request information in language other than English; **providing immunity from civil liability to a pharmacy or employee for injuries resulting from the translation of such information by a third party under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to regulate the practice of pharmacy and the sale and dispensing of poisons, drugs, chemicals and medicines. (NRS 639.070) Existing law prescribes requirements for labeling containers for prescription drugs. (NRS 639.2801) This bill requires each pharmacy, except for an institutional pharmacy, to provide the ~~information~~ **specific directions for use** required to be included on the label of a prescription drug in English and, upon request of a prescribing practitioner, patient or an authorized representative of a patient, any language prescribed by regulations adopted by the Board. This bill **provides that if a pharmacy enters into a contract with a third party for the translation of the information required to be provided by the pharmacy, the pharmacy and any employee of the pharmacy are not liable in any civil action for any injury resulting from the translation by the third party which is not the result of negligence, recklessness or deliberate misconduct of the pharmacy or employee. Finally, this bill** requires a pharmacy subject to this requirement to post in a conspicuous place: (1) notice of the rights of a patient to request information in a language other than English; and (2) a list of every language in which such information may be made available.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each pharmacy, except for an institutional pharmacy, shall, upon the request of a prescribing practitioner, a patient or an authorized representative of a patient, provide the information required by subsection 6 of NRS 639.2801 in English and any language in which the information is required to be provided pursuant to subsection 3.

2. Each pharmacy subject to the requirements of subsection 1 shall post in a conspicuous place:

(a) *Notice of the rights of a patient to request information in a language other than English pursuant to subsection 1; and*

(b) *A list of every language in which such information is available.*

3. *The Board shall adopt regulations prescribing every language in which a pharmacy is required to provide information required by NRS 639.2801. The languages in which a pharmacy is required to provide such information must be specified by the regulations adopted by the Board pursuant to this section based on demographic trends and projections.*

4. *The Board may adopt such other regulations as are necessary to carry out the provisions of this section.*

5. *If a pharmacy enters into a contract with a third party for the translation of the information that the pharmacy is required to provide pursuant to this section, the pharmacy and any employee of the pharmacy are not liable in any civil action for any injury resulting from the translation by the third party which is not the result of negligence, recklessness or deliberate misconduct of the pharmacy or employee.*

Sec. 2. 1. This section becomes effective upon passage and approval.

2. Section 1 of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On ~~January 1~~ **July 1**, 2022, for all other purposes.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 522 to Assembly Bill No. 177.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 200.

The following Senate amendment was read:

Amendment No. 556.

AN ACT relating to veterinary medicine; prohibiting the practice of veterinary medicine except within the context of a veterinarian-client-patient relationship except in certain circumstances; authorizing a veterinarian to supervise a veterinary technician via veterinary telemedicine under certain circumstances; revising which acts constitute the practice of veterinary medicine; revising provisions governing service of process; eliminating the requirement for notarization of applications for certain licenses; revising provisions governing the renewal of certain licenses; authorizing veterinary technicians to administer certain vaccinations under certain circumstances; revising certain procedures required in response to complaints against a licensee; authorizing the Nevada State Board of Veterinary Medical Examiners to issue nondisciplinary letters of correction under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs the practice of veterinary medicine. (Chapter 638 of NRS) **Section 3** of this bill prohibits, with certain exceptions, the practice of veterinary medicine in this State except within the context of a veterinarian-client-patient relationship. **Section 3** also sets forth: (1) the requirements to establish a veterinarian-client-patient relationship; and (2) certain activities that may be conducted in the absence of such a relationship. **Section 6** of this bill revises the definition of the “practice of veterinary medicine” to include the rendering of advice or recommendation by any means, including, without limitation, veterinary telemedicine. **Section 6** also excludes certain activities conducted by certain persons from that definition.

Section 2 of this bill defines the term “veterinary telemedicine.” **Section 4** of this bill authorizes a veterinarian to supervise a veterinary technician via veterinary telemedicine under certain circumstances. **Section 5** of this bill makes a conforming change to indicate the placement of **section 2** within the Nevada Revised Statutes.

Existing law requires that service of process be made by personal service or by registered or certified mail or, if personal service cannot be made, by publication in certain newspapers. (NRS 638.017) Section 9 of this bill revises the methods of service of process that the Nevada State Board of Veterinary Medical Examiners may use if personal service cannot be made to include any method set forth in the Nevada Rules of Civil Procedure for the service of process in a civil action.

Existing law requires applicants for a license to practice veterinary medicine, surgery, obstetrics or dentistry in this State to submit a written application that is signed by the applicant and notarized. (NRS 638.100) Section 11 of this bill eliminates the requirement that such an application be notarized. Section 10 of this bill eliminates a provision of existing law that authorizes the Board to impose an administrative fine on an applicant for a license who knowingly fails to submit a notarized application. (NRS 638.070)

Existing law requires each person licensed under the chapter to submit to the Board annually an application for renewal of the license. Existing law also establishes the dates for the submission and expiration of such a license and other requirements for renewal of the license. (NRS 638.127) Section 12 of this bill requires instead that a license be renewed biennially and also revises the dates for submission, expiration and other requirements applicable to the renewal of such licenses.

Existing law requires the vaccination of an animal for a zoonotic disease to be administered by a licensed veterinarian or under the direct supervision of a licensed veterinarian. (NRS 638.134) Section 13 of this bill limits this provision by authorizing only a veterinary technician to administer such a vaccination under the direct supervision of a licensed veterinarian. Section 8 of this bill makes a conforming change by similarly revising certain exemptions to the provisions of chapter 638 of NRS.

Existing law establishes the procedures that the Board is required to use in response to a complaint concerning a person licensed by the Board. These procedures include the determination of whether there is sufficient evidence to believe that the licensee has committed an act which constitutes a ground for disciplinary action. If the Board determines that there is such evidence, existing law authorizes the Board to enter into a settlement agreement with the licensee. (NRS 638.1429) Section 14 of this bill authorizes a committee designated by the Board and consisting of members of the Board to take certain actions on the Board's behalf. Section 14 also authorizes the Board or committee to commence a disciplinary action against a licensee as an alternative to entering into a settlement agreement.

Existing law establishes the actions that the Board is authorized to take if it determines that a person licensed by the Board or an applicant for a license has committed an act which is grounds for disciplinary action. (NRS 638.147) Section 15 of this bill requires the Board to adopt regulations for the optional issuance of a nondisciplinary letter of correction, in lieu of other authorized discipline, to a licensee or applicant for a license who violates a statute or regulation concerning: (1) recordkeeping; (2) inspection of a veterinary facility; or (3) continuing education.

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

Section 1. Chapter 638 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“Veterinary telemedicine” means the use of medical information exchanged from one site to another via electronic communications regarding the health status of an animal or a group of animals and includes, without limitation, communication via telephone, video, a mobile application or an online platform on an Internet website.*

Sec. 3. 1. *Except as otherwise provided in subsection 2, a person may not practice veterinary medicine in this State except within the context of a veterinarian-client-patient relationship.*

2. *A licensed veterinarian may, in good faith and without the establishment of a veterinarian-client-patient relationship, provide emergency or urgent care to an animal when a client cannot be identified.*

3. *A veterinarian has a veterinarian-client-patient relationship concerning an animal if the veterinarian:*

(a) Assumes responsibility for making medical judgments concerning the health of the animal and the need for medical treatment of the animal;

(b) Has knowledge of the present care and health of the animal sufficient to provide at least a general or preliminary diagnosis of the medical condition of the animal, which knowledge must have been acquired by:

- (1) *Conducting a physical examination of the animal; or*
- (2) *Visiting, within a period of time that is appropriate for the medical issue in question, the premises where the animal is kept;*
- (c) *Obtains an agreement with the client to follow the instructions provided by the veterinarian for the care and medical treatment of the animal;*
- (d) *Is readily available for follow-up evaluation or has arranged for:*
 - (1) *Emergency or urgent care coverage; or*
 - (2) *Continuing medical care and treatment which has been designated by the veterinarian to be provided by another licensed veterinarian who:*
 - (I) *Has access to the medical records of the animal; or*
 - (II) *Can provide reasonable and appropriate medical care; and*
- (e) *Provides oversight of treatment.*

4. *A veterinarian-client-patient relationship is not established solely through veterinary telemedicine. However, once established, a veterinarian-client-patient relationship may be maintained via veterinary telemedicine between:*

- (a) *Medically necessary examinations; or*
- (b) *Visits, within periods of time that are appropriate for the medical issue in question, to the premises where the animal is kept.*

5. *In the absence of a veterinarian-client-patient relationship:*

(a) *Except as otherwise provided in paragraph (b), any advice which is provided through electronic means must be general and not specific to a particular animal or its diagnosis or treatment.*

(b) *Advice and recommendations may be provided via veterinary telemedicine in an emergency, but only until the animal can be examined in person by a licensed veterinarian.*

Sec. 4. *A supervising veterinarian who has established a veterinarian-client-patient relationship may provide the supervision and control required by this chapter and the regulations adopted pursuant to NRS 638.124 over a veterinary technician who is not located at the same site as the supervising veterinarian via veterinary telemedicine if:*

- 1. *The supervising veterinarian and the veterinary technician are both employees of the same veterinary facility; and*
- 2. *The veterinary facility is located in Nevada.*

Sec. 5. NRS 638.001 is hereby amended to read as follows:

638.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 638.0015 to 638.013, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 638.008 is hereby amended to read as follows:

638.008 1. “Practice of veterinary medicine” means:

⚕ (a) To diagnose, treat, correct, change, relieve or prevent animal disease, deformity, defect, injury or other physical or mental conditions, including, but not limited to:

~~[(a)]~~ (1) The prescription or the administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance or technique;

~~[(b)]~~ (2) The collection of embryos;

~~[(c)]~~ (3) Testing for pregnancy or for correcting sterility or infertility;

~~[(d)]~~ (4) Acupuncture;

~~[(e)]~~ (5) Dentistry;

~~[(f)]~~ (6) Chiropractic procedures;

~~[(g)]~~ (7) Surgery, including cosmetic surgery; or

~~[(h)]~~ (8) Rendering advice or recommendation with regard to any of these ~~by any means, including, without limitation, veterinary telemedicine.~~

~~[(2)]~~ (b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in ~~subsection 1.~~

~~—3—~~ **paragraph (a).**

(c) To use any title, words, abbreviation or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in ~~subsection 1.~~ **paragraph (a)**, except if the person is a veterinarian.

2. The term does not include:

(a) The practice of a veterinarian or veterinary technician while he or she lectures, teaches, administers a practical examination or conducts a laboratory demonstration in a facility in connection with:

(1) A seminar; or

(2) A course of continuing education for veterinarians or veterinary technicians that has been approved by the Board;

(b) The practice of a person who is a graduate from a school of veterinary medicine that is not accredited by the Council on Education of the American Veterinary Medical Association while he or she is preparing to take a clinical proficiency examination administered by the American Veterinary Medical Association for the purpose of acquiring an educational certificate issued by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association or its successor organization as described in paragraph (b) of subsection 2 of NRS 638.100; or

(c) Emergency advice or recommendations given by a poison control center until the animal can be examined in person by a licensed veterinarian.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 638.015 is hereby amended to read as follows:

638.015 Nothing in this chapter applies:

1. To the gratuitous castrating, dehorning or vaccinating of domesticated animals nor to the gratuitous treatment of diseased animals by friends or neighbors of the owner thereof, except that all vaccinations for zoonotic diseases must be administered by a licensed veterinarian or a ~~person~~ **veterinary technician** under the direct supervision of a licensed veterinarian.

2. To debar any veterinarian in the employ of the United States Government or the State of Nevada from performing official duties necessary

for the conduct of the business of the United States Government or the State of Nevada, or a political subdivision thereof, upon which the veterinarian is assigned.

3. To any person who is a diplomate from an approved specialty board of the American Veterinary Medical Association who is called into the State for consultation by a person licensed to practice under this chapter for a period not to exceed 30 days in any 12-month period if the person practices under the auspices of a licensed veterinarian.

4. To the giving of advice with respect to or the performance of acts which the Board by rule has prescribed as accepted livestock management practices.

5. To the owner of an animal or full-time regular employee of the owner who is caring for and treating an animal which belongs to the owner unless the ownership of the animal is transferred for the purposes of circumventing this chapter, except that all vaccinations for zoonotic diseases must be administered by a licensed veterinarian or a person under the direct supervision of a licensed veterinarian.

6. To any person or agency that performs humane services for wildlife animals without charge.

7. To any person, other than a veterinarian, who renders aid, assistance or relief to an animal in an emergency without charge if the person does not represent himself or herself as holding a license to practice veterinary medicine or as holding a degree in veterinary medicine or other related field.

8. To any person, other than a veterinarian, who renders emergency paramedical services to an animal without charge during the transportation of the animal to a veterinary facility.

Sec. 9. NRS 638.017 is hereby amended to read as follows:

638.017 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made pursuant to and all notices *of hearings* required by this chapter must be ~~either personal or by registered or certified mail with return receipt requested, addressed to~~ **personally served upon** the veterinarian, veterinary technician or applicant for a license, at his or her last known address, as indicated on the records of the Board. If personal service cannot be made ~~and if notice by mail is returned undelivered, the Executive Director of the Board shall cause a notice of the hearing or action to be published once a week for 4 consecutive weeks in a newspaper published in the county of that person's last known address or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.~~, **the Board may use any other method of service set forth in the Nevada Rules of Civil Procedure for the service of process in a civil action.**

2. Proof of service of process ~~for publication of notice~~ made pursuant to this chapter must be filed with the Executive Director and recorded in the minutes of the Board.

Sec. 10. NRS 638.070 is hereby amended to read as follows:

638.070 1. The Board shall adopt regulations providing an administrative fine in an amount not to exceed \$500 if an applicant for a license or the renewal of a license:

(a) Intentionally or knowingly makes a false or misleading statement on an application; *or*

(b) ~~Knowingly fails to submit a notarized application; or~~

~~(c)~~ Fails to inform the Board of any change of information which was contained in an application.

2. The Board may adopt regulations:

(a) Necessary to carry out the provisions of this chapter;

(b) Concerning the rights and responsibilities of veterinary interns and externs and graduates of schools of veterinary medicine located outside the United States or Canada;

(c) Concerning the rights and responsibilities of a veterinarian's employees who are not licensed nor working towards obtaining a license pursuant to this chapter and whose duties require them to spend a substantial portion of their time in direct contact with animals;

(d) Concerning requirements for continuing education;

(e) Establishing procedures to approve schools which confer the degree of veterinary technician or its equivalent;

(f) Concerning the disposition of animals which are abandoned or left unclaimed at the office of a veterinarian;

(g) Establishing sanitary requirements for facilities in which veterinary medicine is practiced, including, but not limited to, precautions to be taken to prevent the creation or spread of any infectious or contagious disease; and

(h) Concerning alternative veterinary medicine, including, but not limited to, acupuncture, chiropractic procedures, dentistry, cosmetic surgery, holistic medicine, and the provision of such services by a licensed provider of health care under the direction of a licensed veterinarian.

3. The Board may:

(a) Employ attorneys, investigators, hearing officers for disciplinary hearings, and other professional consultants and clerical personnel necessary to the discharge of its duties;

(b) Conduct investigations and take and record evidence as to any matter cognizable by it;

(c) Maintain offices in as many localities in the State as it considers necessary to carry out the provisions of this chapter; and

(d) Purchase or rent any office space, equipment and supplies that it considers necessary to carry out the provisions of this chapter.

Sec. 11. NRS 638.100 is hereby amended to read as follows:

638.100 1. Any person who desires to secure a license to practice veterinary medicine, surgery, obstetrics or dentistry in the State of Nevada must make written application to the Executive Director of the Board.

2. The application must include all information required to complete the application and any other information required by the Board and must be accompanied by satisfactory proof that the applicant:

- (a) Is of good moral character;
- (b) Except as otherwise provided in subsection 3, has received a diploma conferring the degree of doctor of veterinary medicine or its equivalent from a school of veterinary medicine that is accredited by the Council on Education of the American Veterinary Medical Association or, if the applicant is a graduate of a school of veterinary medicine that is not accredited by the Council on Education of the American Veterinary Medical Association, that the applicant has received an educational certificate issued by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association or, if the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association ceases to exist, by an organization approved by the Board that certifies that the holder of the certificate has demonstrated knowledge and skill of veterinary medicine that is equivalent to the knowledge and skill of veterinary medicine of a graduate of a college of veterinary medicine that is accredited by the Council on Education of the American Veterinary Medical Association; and
- (c) Has passed each examination required by the Board pursuant to NRS 638.110.

3. A veterinary student in his or her final year at a school accredited by the American Veterinary Medical Association may submit an application to the Board and take the state examination administered by the Board, but the Board may not issue a license until the student has complied with the requirements of subsection 2.

4. The application must be signed by the applicant ~~[, notarized]~~ and accompanied by a fee set by the Board, not to exceed \$500.

5. The Board may refuse to issue a license if the Board determines that an applicant has committed an act which would be a ground for disciplinary action if the applicant were a licensee.

Sec. 12. NRS 638.127 is hereby amended to read as follows:

638.127 1. On or before ~~[November]~~ May 15 of each odd-numbered year, ~~[the Executive Director shall mail to]~~ each person licensed under the provisions of this chapter ~~[an]~~ must:

(a) Submit to the Board an application ~~[form]~~ for renewal of the license.
~~[2. Each applicant for renewal must complete the form and return it to the Executive Director, accompanied by all information required to complete the renewal.]~~

(b) Pay the renewal fee and full payment of all fines and any other money which the applicant owes to the Board. ~~[, on or before January 1 of each year. Each application for renewal must be signed by the applicant.]~~ The renewal fee for licensees and persons on inactive status must be in an amount determined by the Board.

~~{3.}~~ (c) Submit evidence satisfactory to the Board of the applicant's compliance with any requirements for continuing education.

(d) Submit all other information required by the Board to complete the application for renewal of the license.

2. Upon receipt of the application and all required information and payment of the renewal fee and all fines and any other money owed, the Board shall issue to that person a certificate of renewal.

~~{4.}~~ 3. Any person who fails to renew a license on or before ~~{March 1}~~ August 31 of each odd-numbered year forfeits the license.

~~{5.}~~ 4. When a person has forfeited his or her license in the manner provided in subsection ~~{4.}~~ 3. the Board may reinstate the license and issue a certificate of renewal upon receipt of all information required to complete the renewal and payment of:

(a) The renewal fee;

(b) All fines and any other money owed ~~{to the Board;}~~ to the Board; and

(c) A delinquency penalty of \$50 for each month or fraction thereof the license was not renewed after ~~{January 1.}~~ June 30.

~~{6.}~~ 5. If a licensee does not practice for more than 12 consecutive months, the Board may require the licensee to take an examination to determine his or her competency before renewing the license.

~~{7. If a licensee does not renew his or her license and is licensed to practice in another state or territory of the United States, the Board may not issue the licensee a license to practice in the State by reciprocity. Such a licensee must reinstate the license in the manner prescribed by the Board.}~~

Sec. 13. NRS 638.134 is hereby amended to read as follows:

638.134 1. Each licensed veterinarian to whom an animal is brought for treatment shall recommend to the owner of the animal or to the person delivering the animal for treatment that the animal receive the vaccinations for zoonotic diseases that are recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. The vaccinations must be administered by a licensed veterinarian or a veterinary technician under the direct supervision of a licensed veterinarian. The Board may adopt regulations to ensure compliance with the provisions of this subsection.

2. A licensed veterinarian who agrees to perform veterinary services on an animal shall provide the services at the level of quality required by this chapter regardless of the fee, if any, which the veterinarian charges for his or her services. A violation of this subsection is a ground for disciplinary action.

Sec. 14. NRS 638.1429 is hereby amended to read as follows:

638.1429 1. After the investigation of the complaint is completed, the member of the Board who conducted the investigation shall submit to the Board or appropriate committee a written report of his or her findings and recommendations concerning the disposition of the complaint.

2. If the Board or appropriate committee determines that there is not sufficient evidence to believe that a licensee has committed an act which

constitutes a cause for disciplinary action, the Board or committee, as applicable, shall dismiss the complaint and send a written notice to the person who filed the complaint and the licensee who was the subject of the investigation that the complaint was dismissed.

3. If the Board or appropriate committee determines that there is sufficient evidence to believe that a licensee has committed an act which constitutes a ground for disciplinary action, the Board or committee, as applicable, may commence a disciplinary action or enter into a settlement agreement with the licensee. ~~The~~

4. If the Board or appropriate committee enters into a settlement agreement with a licensee, the agreement must be signed by the licensee and the President of the Board. The Board shall send a written notice of the settlement to the person who filed the complaint against the licensee. The notice must include a copy of the settlement agreement. ~~The complaint and the~~

5. A document used to commence a disciplinary action or a settlement agreement are public records.

6. As used in this section, "committee" means a committee designated by the Board and consisting of members of the Board.

Sec. 15. NRS 638.147 is hereby amended to read as follows:

638.147 1. If the Board determines that any applicant for a license or any person licensed pursuant to this chapter has committed any of the acts which are grounds for disciplinary action, the Board may:

- (a) Refuse to issue a license.
- (b) Refuse to renew a license.
- (c) Revoke a license.
- (d) Suspend a license for a definite period or until further order of the Board.
- (e) Impose a fine in an amount not to exceed \$10,000 for each act which constitutes a ground for disciplinary action.
- (f) Place a licensee on probation subject to any reasonable conditions imposed by the Board, including requiring courses in continuing education or a periodic or continuous review of the licensee's practice.
- (g) Administer a public reprimand.
- (h) Limit the practice of the licensee to specified branches of veterinary medicine.
- (i) Require the licensee to take a competency examination or a mental or physical examination.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. If the Board determines that a person licensed pursuant to this chapter has violated a provision of this chapter, or a regulation adopted by the Board, concerning recordkeeping, inspection of a veterinary facility or continuing education, the Board may, in lieu of any remedy set forth in

subsection 1 or NRS 638.1471, issue a nondisciplinary letter of correction. The Board shall adopt regulations to carry out this subsection.

Sec. 16. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 15, inclusive of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2021, for all other purposes.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 556 to Assembly Bill No. 200.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 207.

The following Senate amendment was read:

Amendment No. 626.

AN ACT relating to public accommodations; expanding the definition of “place of public accommodation” to include a business which offers goods or services to the general public in this State through an Internet website, mobile application or other electronic medium and which is not operated ~~from~~ in conjunction with a physical location ~~in this State;~~ which is open to the public; exempting certain online forums from the applicability of provisions governing places of public accommodation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that all persons have the right to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation without discrimination or segregation based on race, color, religion, national origin, disability, sexual orientation, sex or gender identity or expression. (NRS 651.070) A person who withholds, denies or deprives any other person of this right, intimidates, threatens or coerces any other person for the purpose of interfering with this right or punishes any other person for exercising this right is guilty of a misdemeanor and is liable to the person for damages. (NRS 651.080, 651.090) Existing law defines “place of public accommodation” to include certain specified establishments and places and any other establishment or place to which the public is invited or which is intended for public use. (NRS 651.050) **Section 1** of this bill expands the definition of “place of public accommodation” to include any online establishment, which is defined in **section 1** as a business, whether or not conducted for profit, which offers goods or services to the general public in this State through an Internet website, mobile application or other electronic medium and which is not

operated ~~from~~ **in conjunction with** a physical location ~~in this State~~ **which is open to the public.**

Existing law exempts from the provisions governing places of public accommodation certain private clubs and other establishments not in fact open to the public. (NRS 651.060) **Section 2** of this bill additionally exempts from such provisions a private online discussion forum, which is defined in **section 2** to mean an online forum with not more than 1,000 members that is operated for the primary purpose of allowing its members to exercise their constitutionally protected right of expressive association and whose operator does not regularly receive certain payments from nonmembers.

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

Section 1. NRS 651.050 is hereby amended to read as follows:

651.050 As used in NRS 651.050 to 651.110, inclusive, unless the context otherwise requires:

1. “Disability” means, with respect to a person:
 - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
 - (b) A record of such an impairment; or
 - (c) Being regarded as having such an impairment.
2. “Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.
3. ***“Online establishment” means a business, whether or not conducted for profit, which:***
 - (a) Offers goods or services to the general public in this State through an Internet website, mobile application or other electronic medium; and***
 - (b) Is not operated ~~from~~ in conjunction with a physical location ~~in this State~~ which is open to the public.***
4. “Place of public accommodation” means:
 - (a) Any inn, hotel, motel or other establishment which provides lodging to transient guests, except an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as the proprietor’s residence;
 - (b) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, casino or any other facility where food or spirituous or malt liquors are sold, including any such facility located on the premises of any retail establishment;
 - (c) Any gasoline station;
 - (d) Any motion picture house, theater, concert hall, sports arena or other place of exhibition or entertainment;
 - (e) Any auditorium, convention center, lecture hall, stadium or other place of public gathering;
 - (f) Any bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;

(g) Any laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, office of a provider of health care, hospital or other service establishment;

(h) Any terminal, depot or other station used for specified public transportation;

(i) Any museum, library, gallery or other place of public display or collection;

(j) Any park, zoo, amusement park or other place of recreation;

(k) Any nursery, private school or university or other place of education;

(l) Any day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment;

(m) Any gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation;

(n) ~~Any online establishment;~~

~~(o)~~ Any other establishment or place to which the public is invited or which is intended for public use; ~~and~~

~~(p)~~ Any establishment ~~that is operated from a physical location and~~ physically ~~containing~~ ~~contains~~ or ~~is~~ contained within any of the establishments ~~that are operated from a physical location~~ described in paragraphs (a) to ~~(n)~~ ~~(o)~~ inclusive, ~~and~~ which holds itself out as serving patrons of the described establishment.

~~4.~~ ; and

(p) Any online establishment.

5. “Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 2. NRS 651.060 is hereby amended to read as follows:

651.060 1. The provisions of NRS 651.050 to 651.110, inclusive, do not apply to any private club , *private online discussion forum* or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of NRS 651.050.

2. *As used in this section, “private online discussion forum” means an online forum:*

(a) Which is operated for the primary purpose of allowing its members to exercise their constitutionally protected right of expressive association;

(b) Which has not more than 1,000 members; and

(c) The operator of which does not regularly receive payment, directly or indirectly, from or on behalf of nonmembers for dues, fees, use of facilities or goods or services for the furtherance of trade or business.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 626 to Assembly Bill No. 207.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 222.

The following Senate amendment was read:

Amendment No. 625.

AN ACT relating to employment; making it an unlawful employment practice for an employer to take certain actions against an employee who reports or reasonably refuses to engage in certain conduct that is illegal or unsafe or who provides notice of certain safety or health violations; revising provisions governing periods of limitation in certain civil actions concerning unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Supreme Court has determined that under existing law an employer violates the public policy of this State protecting what is commonly referred to as whistleblowing if the employer terminates the employment of an at-will employee because the employee reports to the appropriate external authorities conduct by the employer that the employee reasonably and in good faith suspects may be illegal. However, the Court has also determined that this protection does not extend to a whistleblower who reports such conduct only to a supervisor or other person within the employer's organization. (*Wiltsie v. Baby Grand Corp.*, 105 Nev. 291, 293 (1989); *Allum v. Valley Bank of America*, 114 Nev. 1313, 1325 (1998)) **Section 1** of this bill codifies in statute the whistle blower protections established by the Nevada Supreme Court for employees who report to appropriate external authorities, or to the employer, conduct by the employer that the employee reasonably and in good faith suspects may be illegal. **Section 1** also provides that those provisions apply to conduct by the employer that the employee reasonably and in good faith suspects may be unsafe. **Section 1** further provides the same protections to employees who reasonably refuse to engage in such conduct.

Existing law establishes the Division of Industrial Relations within the Department of Business and Industry and, in addition to its other duties, requires the Division to supervise and regulate all matters relating to occupational safety and health. (NRS 232.510, 618.175) To carry out those duties under existing law, the Administrator of the Division and his representatives are authorized to inspect workplaces. (NRS 618.325) Existing law further provides that before or during such an inspection, any employee is entitled to notify the Division of a safety or health violation that the employee has reason to believe exists in the workplace. (NRS 618.435) **Section 1** extends its whistleblower protections to employees who notify the Division of such violations. **Section 2** of this bill makes a conforming change to indicate the placement of **section 1** within the Nevada Revised Statutes.

Under existing law, if, after a complaint alleging an unfair employment practice is filed with the Nevada Equal Rights Commission, the Commission

does not conclude that an unfair employment practice has occurred, the person alleging such a practice has occurred is authorized to bring a civil action in the district court for an order granting or restoring to that person the rights to which the person is entitled. (NRS 613.420) Existing law prohibits a person from bringing such a civil action more than 180 days after the act constituting the unfair employment practice occurred or more than 90 days after the receipt of a right-to-sue letter issued by the Commission, whichever is later. Existing law further provides that the 90-day and 180-day periods of limitation are tolled during the pendency of the complaint before the Commission. (NRS 613.430) **Section 4** of this bill extends the coverage of those provisions to: (1) actions in the district court for the occurrence of unlawful employment practices prohibited under Title VII of the Civil Rights Act of 1964; (2) issuance of right-to-sue letters by the federal Equal Employment Opportunity Commission; and (3) the tolling of the 90-day and 180-day periods of limitation during the pendency of a complaint before the federal Equal Employment Opportunity Commission.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *It is an unlawful employment practice for an employer to discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, an employee because the employee:*

(a) *Reports to his or her employer or an appropriate external authority, or reasonably refuses to engage in, conduct that the employee reasonably and in good faith suspects may violate a local, state or federal law or regulation or pose an unreasonable risk to the health or safety of any person;*
or

(b) *Notifies the Division of Industrial Relations of the Department of Business and Industry, pursuant to NRS 618.435, of a safety or health violation that the employee has reason to believe exists in the workplace.*

2. *An employee who is discharged, discriminated against or otherwise suffers an adverse employment action as a result of a violation of subsection 1 by his or her employer may bring a civil action against the employer and obtain:*

(a) *Any wages and benefits lost as a result of the violation;*

(b) *An order of reinstatement without loss of position, seniority or benefits;*

(c) ~~*Damages equal to the amount of the lost wages and benefits;*~~

~~(d)~~ *Any past or future compensatory damages; and*

~~(e)~~ *(d) Punitive damages, if appropriate pursuant to NRS 42.005. The provisions of NRS 42.007 do not apply to an action brought pursuant to this section.*

3. *The court shall award reasonable costs, including, without limitation, court costs and attorney’s fees, to an employee who is the prevailing party in an action brought pursuant to this section.*

4. *The remedy provided by this section is the exclusive remedy for an action brought pursuant to this section.*

Sec. 2. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.4383, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. “Disability” means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. “Employer” means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. “Employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. “Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

5. “Labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

6. “Person” includes the State of Nevada and any of its political subdivisions.

7. “Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 613.430 is hereby amended to read as follows:

613.430 ***To the extent consistent with federal law:***

1. No action authorized by NRS 613.420 ***or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.***, may be brought:

(a) More than 180 days after the date of the act complained of; or

(b) More than 90 days after the date of the:

- (1) Issuance of the letter described in subsection 1 of NRS 613.420; or
- (2) Receipt of the right-to-sue notice *issued by the Nevada Equal Rights Commission* pursuant to NRS 613.412 ~~or by the United States Equal Employment Opportunity Commission pursuant to 42 U.S.C. § 2000e-5(f)(1), as applicable,~~

↪ whichever is later.

2. When a complaint is filed with the Nevada Equal Rights Commission ~~or the United States Equal Employment Opportunity Commission~~, the limitation provided by this section is tolled as to any action authorized by NRS 613.420 *or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.*, during the pendency of the complaint before the *Nevada Equal Rights Commission or the United States Equal Employment Opportunity Commission, as applicable.*

Sec. 5. This act becomes effective upon passage and approval.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 625 to Assembly Bill No. 222.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 733.

AN ACT relating to employment; ~~making it an unlawful employment practice for an employer to take certain actions against an employee who reports or reasonably refuses to engage in certain conduct that is illegal or unsafe or who provides notice of certain safety or health violations;~~ revising provisions governing periods of limitation in certain civil actions concerning unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{The Nevada Supreme Court has determined that under existing law an employer violates the public policy of this State protecting what is commonly referred to as whistleblowing if the employer terminates the employment of an at will employee because the employee reports to the appropriate external authorities conduct by the employer that the employee reasonably and in good faith suspects may be illegal. However, the Court has also determined that this protection does not extend to a whistleblower who reports such conduct only to a supervisor or other person within the employer's organization. (Wiltsie v. Baby Grand Corp., 105 Nev. 291, 293 (1989); Allum v. Valley Bank of America, 114 Nev. 1313, 1325 (1998)) Section 1 of this bill codifies in statute the whistle blower protections established by the Nevada Supreme Court for employees who report to appropriate external authorities, or to the employer, conduct by the employer that the employee reasonably and in good faith suspects may be illegal. Section 1 also provides that those provisions apply to conduct by the employer that the employee reasonably and in good faith~~

suspects may be unsafe. Section 1 further provides the same protections to employees who reasonably refuse to engage in such conduct.

~~Existing law establishes the Division of Industrial Relations within the Department of Business and Industry and, in addition to its other duties, requires the Division to supervise and regulate all matters relating to occupational safety and health. (NRS 232.510, 618.175) To carry out those duties under existing law, the Administrator of the Division and his representatives are authorized to inspect workplaces. (NRS 618.325) Existing law further provides that before or during such an inspection, any employee is entitled to notify the Division of a safety or health violation that the employee has reason to believe exists in the workplace. (NRS 618.435) Section 1 extends its whistleblower protections to employees who notify the Division of such violations. Section 2 of this bill makes a conforming change to indicate the placement of section 1 within the Nevada Revised Statutes.~~

Under existing law, if, after a complaint alleging an unfair employment practice is filed with the Nevada Equal Rights Commission, the Commission does not conclude that an unfair employment practice has occurred, the person alleging such a practice has occurred is authorized to bring a civil action in the district court for an order granting or restoring to that person the rights to which the person is entitled. (NRS 613.420) Existing law prohibits a person from bringing such a civil action more than 180 days after the act constituting the unfair employment practice occurred or more than 90 days after the receipt of a right-to-sue letter issued by the Commission, whichever is later. Existing law further provides that the 90-day and 180-day periods of limitation are tolled during the pendency of the complaint before the Commission. (NRS 613.430) ~~Section 4 of this~~ **This** bill extends the coverage of those provisions to: (1) actions in the district court for the occurrence of unlawful employment practices prohibited under Title VII of the Civil Rights Act of 1964; (2) issuance of right-to-sue letters by the federal Equal Employment Opportunity Commission; and (3) the tolling of the 90-day and 180-day periods of limitation during the pendency of a complaint before the federal Equal Employment Opportunity Commission.

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

Section 1. ~~{Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~**1. It is an unlawful employment practice for an employer to discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, an employee because the employee**~~

~~**(a) Reports to his or her employer or an appropriate external authority, or reasonably refuses to engage in, conduct that the employee reasonably and in good faith suspects may violate a local, state or federal law or**~~

~~regulation or pose an unreasonable risk to the health or safety of any person;~~
~~or~~

~~— (b) Notifies the Division of Industrial Relations of the Department of Business and Industry, pursuant to NRS 618.435, of a safety or health violation that the employee has reason to believe exists in the workplace.~~

~~— 2. An employee who is discharged, discriminated against or otherwise suffers an adverse employment action as a result of a violation of subsection 1 by his or her employer may bring a civil action against the employer and obtain:~~

~~— (a) Any wages and benefits lost as a result of the violation;~~

~~— (b) An order of reinstatement without loss of position, seniority or benefits;~~

~~— (c) Any past or future compensatory damages; and~~

~~— (d) Punitive damages, if appropriate pursuant to NRS 42.005. The provisions of NRS 42.007 do not apply to an action brought pursuant to this section.~~

~~— 3. The court shall award reasonable costs, including, without limitation, court costs and attorney's fees, to an employee who is the prevailing party in an action brought pursuant to this section.~~

~~— 4. The remedy provided by this section is the exclusive remedy for an action brought pursuant to this section. (Deleted by amendment.)~~

Sec. 2. NRS 613.310 is hereby amended to read as follows:

~~— 613.310 As used in NRS 613.310 to 613.4383, inclusive, and section 1 of this act, unless the context otherwise requires:~~

~~— 1. "Disability" means, with respect to a person:~~

~~— (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;~~

~~— (b) A record of such an impairment; or~~

~~— (c) Being regarded as having such an impairment.~~

~~— 2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:~~

~~— (a) The United States or any corporation wholly owned by the United States;~~

~~— (b) Any Indian tribe;~~

~~— (c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).~~

~~— 3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.~~

~~— 4. "Gender identity or expression" means a gender related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.~~

~~5. “Labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.~~

~~6. “Person” includes the State of Nevada and any of its political subdivisions.~~

~~7. “Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.~~ **(Deleted by amendment.)**

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 613.430 is hereby amended to read as follows:

613.430 *To the extent consistent with federal law:*

1. No action authorized by NRS 613.420 *or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.*, may be brought:

(a) More than 180 days after the date of the act complained of; or

(b) More than 90 days after the date of the:

(1) Issuance of the letter described in subsection 1 of NRS 613.420; or

(2) Receipt of the right-to-sue notice *issued by the Nevada Equal Rights Commission* pursuant to NRS 613.412 ~~†~~ *or by the United States Equal Employment Opportunity Commission pursuant to 42 U.S.C. § 2000e-5(f)(1), as applicable,*

↪ whichever is later.

2. When a complaint is filed with the Nevada Equal Rights Commission ~~†~~ *or the United States Equal Employment Opportunity Commission*, the limitation provided by this section is tolled as to any action authorized by NRS 613.420 *or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.*, during the pendency of the complaint before the *Nevada Equal Rights Commission* ~~†~~ *or the United States Equal Employment Opportunity Commission, as applicable.*

Sec. 5. This act becomes effective upon passage and approval.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 733 to Assembly Bill No. 222.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 250.

The following Senate amendment was read:

Amendment No. 624.

AN ACT relating to insurance; requiring the establishment of an open enrollment period for a Medicare supplemental policy; prohibiting an insurer issuing such a policy from taking certain actions during the open enrollment period; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law establishes the Medicare program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. (42 U.S.C. §§ 1395 et seq.) Existing federal regulations define the term “Medicare supplemental policy” to mean a policy offered by a private insurer that is primarily designed to pay expenses not reimbursed under Medicare because of certain limitations under Medicare. (42 C.F.R. § 403.205) Existing state law authorizes the Commissioner of Insurance to adopt regulations relating to the form, content and sale of policies of insurance which provide for the payment of expenses which are not covered by Medicare, including Medicare supplemental policies. (NRS 687B.430) **Sections 1, 3 and 4** of this bill require an insurer offering a Medicare supplemental policy or the Public Employees’ Benefits Program or any local government that provides a similar policy for public employees to offer an open enrollment period for persons covered by such policies, during which the insurer or governmental entity is prohibited from placing certain restrictions on the issuance of such a policy. **Section 2** of this bill makes a conforming change to apply the provisions of **section 1** to nonprofit hospital and medical or dental service corporations that issue such policies.

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

Section 1. Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer that issues a Medicare supplemental policy shall offer to a person currently insured under any such policy an annual open enrollment period commencing with the first day of the birthday month of the person and remaining open for at least 60 days thereafter, during which the person may purchase any Medicare supplemental policy made available by the insurer in this State that includes the same or lesser benefits, ~~including, without limitation, innovative~~ Innovative benefits, as described in 42 U.S.C. § 1395ss(p)(4)(B), ~~as the policy under which the person is currently insured,~~ must not be considered when determining whether a Medicare supplemental policy includes the same benefits as or lesser benefits than another such policy.

2. During the open enrollment period offered pursuant to subsection 1, an insurer shall not deny or condition the issuance or effectiveness, or discriminate in the price of coverage, of a Medicare supplemental policy based on the health status, claims experience, receipt of health care or medical condition of a person described in subsection 1.

3. At least 30 days before the beginning of the open enrollment period offered pursuant to subsection 1 but not more than 60 days before the beginning of that period, an insurer that issues a Medicare supplemental policy shall notify each person to whom the open enrollment period applies of:

(a) The dates on which the open enrollment period begins and ends and the rights of the person established by the provisions of this section; and

(b) Any modification to the benefits provided by the policy under which the person is currently insured or adjustment to the premiums charged for that policy.

4. As used in this section, “Medicare supplemental policy” has the meaning ascribed to it in 42 C.F.R. § 403.205 and additionally includes policies offered by public entities that otherwise meet the requirements of that section.

Sec. 2. NRS 695B.320 is hereby amended to read as follows:

695B.320 1. Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters 692B, 692C, 693A and 696B of NRS, **and section 1 of this act**, to the extent applicable and not in conflict with the express provisions of this chapter.

2. For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term “insurer.”

Sec. 3. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as

defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, *section 1 of this act*, 689B.030 to 689B.050, inclusive, 689B.287 and 689B.500 apply to coverage provided pursuant to this paragraph, except that the provisions of NRS 689B.0378, 689B.03785 and 689B.500 only apply to coverage for active officers and employees of the governing body, or the dependents of such officers and employees.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 4. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 687B.409, *section 1 of this act*, 689B.255, 695G.150, 695G.155, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.174, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on January 1, 2022.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 624 to Assembly Bill No. 250.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 277.

The following Senate amendment was read:

Amendment No. 553.

AN ACT relating to insurance; ~~requiring the amount paid by an insurance company for the coverage of certain medical expenses resulting from the crash of a passenger car to be based on the actual charges incurred, providing that an insured person may request that certain payments made to the insured person be deposited to the trust account maintained by the attorney of the insured person;~~ revising provisions relating to the exchange of medical and insurance information by certain persons involved in a claim for personal injury asserted under a policy of motor vehicle insurance; ~~covering certain motor vehicles and motorcycles;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[Existing law requires insurance companies transacting motor vehicle insurance in this State to offer to insured persons the option of purchasing coverage in an amount of at least \$1,000 for the payment of reasonable and necessary medical expense resulting from a crash. Under existing law, this option only applies to policies that cover passenger cars. (NRS 687B.145) If an insured person purchases this option, section 1 of this bill requires that the amount paid by the insurance company to cover medical expenses resulting from the crash of a passenger car be based on the actual charges incurred.]~~

~~Section 1 defines “actual charges incurred” to mean the charges that a provider of health care would bill an uninsured patient in the locality where the medical expenses were incurred. Finally, section 1 provides that any such payment made to an insured person by the insurance company may be deposited to the trust account maintained by the attorney of the insured person under certain circumstances. Section 1 provides that such a deposit to a trust account can only occur if the insured person requests in writing that payment be deposited to the trust account.~~

~~Section 2 of this bill requires the insurer of a party against whom a claim is asserted for personal injury under a policy of motor vehicle insurance covering a passenger car or a motorcycle to immediately disclose to the claimant all pertinent facts or provisions of the policy relating to any coverage at issue, including policy limits. Section 2 requires an insurer to disclose policy limits by certain means. Section 2 requires the claimant or the claimant’s attorney to provide to the party or the party’s attorney and the insurer, not more than once every 90 days, all medical reports, records and bills concerning the claim.]~~
Section 2 ~~[provides that in lieu of the claimant or the claimant’s attorney providing such reports, records and bills, the]~~ **of this bill authorizes a claimant or the claimant’s attorney ~~(may)~~ to provide a written authorization to allow the party** **against whom a claim is asserted for personal injury under a policy of motor vehicle insurance** **or the party’s attorney and the insurer** **of the party** **to receive** ~~[the]~~ **all** **reports, records** **, films** **and bills from the claimant’s provider of health care. If** ~~[the reports, records and bills are provided pursuant to]~~ **such a written authorization** ~~[,]~~ **is provided, section 2 : (1) requires the insurer of the party to, within 5 business days after receiving the written authorization, disclose to the claimant or the claimant’s attorney a copy of the declarations page of the policy, with certain redactions to the declaration page being authorized; and (2) authorizes the claimant or the claimant’s attorney to request copies of all such reports, records** **, films** **and bills from the party, the party’s attorney or the insurer** ~~[,]~~ **of the party.**

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

Section 1. ~~[NRS 687B.145 is hereby amended to read as follows:~~
~~687B.145 1. Any policy of insurance or endorsement providing coverage under the provisions of NRS 690B.020 or other policy of casualty insurance may provide that if the insured has coverage available to the insured under more than one policy or provision of coverage, any recovery or benefits may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provision which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has~~

~~purchased separate coverage on the same risk and has paid a premium calculated for full reimbursement under that coverage.~~

~~2. Except as otherwise provided in subsection 5, insurance companies transacting motor vehicle insurance in this State must offer, on a form approved by the Commissioner, uninsured and underinsured vehicle coverage in an amount equal to the limits of coverage for bodily injury sold to an insured under a policy of insurance covering the use of a passenger car. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage. Uninsured and underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of the insured's own coverage any amount of damages for bodily injury from the insured's insurer which the insured is legally entitled to recover from the owner or operator of the other vehicle to the extent that those damages exceed the limits of the coverage for bodily injury carried by that owner or operator. If an insured suffers actual damages subject to the limitation of liability provided pursuant to NRS 41.035, underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of the insured's own coverage any amount of damages for bodily injury from the insured's insurer for the actual damages suffered by the insured that exceed that limitation of liability.~~

~~3. An insurance company transacting motor vehicle insurance in this State must offer an insured under a policy covering the use of a passenger car, the option of purchasing coverage in an amount of at least \$1,000 for the payment of reasonable and necessary medical expenses resulting from a crash. The offer must be made on a form approved by the Commissioner. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage. ***If an insured purchases coverage in an amount of at least \$1,000 for the payment of reasonable and necessary medical expenses resulting from a crash and an applicable claimant seeks the payment of reasonable and necessary medical expenses resulting from a crash, the amount paid by the insurance company must be based on the actual charges incurred. If the claimant is represented by an attorney, any payment made to the claimant pursuant to this section may be deposited to the trust account maintained by the attorney of the claimant if the claimant requests in writing that the payment be deposited to the trust account.***~~

~~4. An insurer who makes a payment to an injured person on account of underinsured vehicle coverage as described in subsection 2 is not entitled to subrogation against the underinsured motorist who is liable for damages to the injured payee. This subsection does not affect the right or remedy of an insurer under subsection 5 of NRS 690B.020 with respect to uninsured vehicle~~

coverage. As used in this subsection, “damages” means the amount for which the underinsured motorist is alleged to be liable to the claimant in excess of the limits of bodily injury coverage set by the underinsured motorist’s policy of casualty insurance.

~~5. An insurer need not offer, provide or make available uninsured or underinsured vehicle coverage in connection with a general commercial liability policy, an excess policy, an umbrella policy or other policy that does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation or use of a specifically insured motor vehicle.~~

~~6. As used in this section:~~

~~(a) “Actual charges incurred” means the charges that an applicable provider of health care would bill an uninsured patient for the applicable health care services. The term does not include charges which the provider of health care would bill based upon any discounts or reduced rates resulting from any:~~

~~(1) Policy of health insurance; or~~

~~(2) Payment rates or schedules for Medicare, Medicaid or any other similar public welfare program.~~

~~(b) “Excess policy” means a policy that protects a person against loss in excess of a stated amount or in excess of coverage provided pursuant to another insurance contract.~~

~~[(b)] (c) “Health care services” has the meaning ascribed to it in NRS 695C.022.~~

~~(d) “Passenger car” has the meaning ascribed to it in NRS 482.087.~~

~~[(c)] (e) “Provider of health care” has the meaning ascribed to it in NRS 629.031.~~

~~(f) “Umbrella policy” means a policy that protects a person against losses in excess of the underlying amount required to be covered by other policies.]~~

(Deleted by amendment.)

Sec. 2. NRS 690B.024 is hereby amended to read as follows:

690B.024 1. ~~Any **The insurer of any** party against whom a claim is asserted for compensation or damages for any mental or physical **personal** injury under a policy of motor vehicle insurance may require **covering a passenger car or motorcycle shall immediately disclose to the claimant all pertinent facts or provisions of the policy relating to any coverage at issue, including, without limitation, policy limits. An insurer shall disclose policy limits by sending to the electronic mail address or mailing to the postal address of the claimant or any attorney representing the claimant a copy of the policy, including, without limitation, the declarations page of the policy.**~~
~~↪ The insurer may redact personal and private information from the declarations page of the policy.~~

~~2. Except as otherwise provided in this subsection, the claimant or any attorney representing the claimant to **shall** provide to the party or any attorney of the party and to the insurer **of the party, not more than once every 90 days,**~~

~~all medical reports, records and bills concerning the claim. In lieu of providing medical reports, records and bills pursuant to this subsection, the~~
A claimant or any attorney representing the claimant may provide to the party against whom a claim is asserted for compensation or damages for any mental or physical injury under a policy of motor vehicle insurance or any attorney of the party and to the insurer of the party a written authorization to receive all ~~the~~ medical reports, records, films and bills related to the claim from the providers ~~provider~~ of health care. An authorization so provided may not be revoked without cause.

2. If a written authorization is provided pursuant to subsection 1, the insurer of the party shall, within 5 business days after receiving the written authorization, disclose to the claimant or any attorney representing the claimant a copy of the declarations page of the policy of motor vehicle insurance. The insurer of the party may redact personal information from the declarations page of the policy, except that the name of the party and the policy limits must not be redacted.

3. At the written request of the claimant or the attorney of the claimant, copies of all medical reports, records, films and bills obtained by a written authorization pursuant to subsection 1 ~~12~~ must be provided to the claimant or the attorney of the claimant within 30 days after the date they are received by the party, any attorney of the party or the insurer ~~13~~ of the party. If the claimant or the attorney of the claimant makes a written request for the medical reports, records, films and bills, the claimant or the attorney of the claimant shall pay for the reasonable costs of copying the medical reports, records, films and bills.

~~{3. Within 10 days after receipt of a written authorization pursuant to subsection 1, the insurer who issued the policy specified in subsection 1 shall, upon request, provide the claimant or any attorney representing the claimant with all pertinent facts or provisions of the policy relating to any coverage at issue, including policy limits.}~~

~~4. {The provisions of subsections 1, 2 and 3 cease to apply upon the commencement of an action in court arising from a claim asserted under a policy of motor vehicle insurance.~~

~~5.} As used in this section, “provider ~~14~~~~

~~—(a) “Motorcycle” has the meaning ascribed to it in NRS 482.070.~~

~~—(b) “Passenger car” has the meaning ascribed to it in NRS 482.087.~~

~~—(c) “Provider of health care” has the meaning ascribed to it in NRS 629.031.~~

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 553 to Assembly Bill No. 277.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 290.

The following Senate amendment was read:

Amendment No. 623.

AN ACT relating to financial institutions; **requiring a trust company or savings bank that assumes the role of custodian of an individual retirement account to provide certain notice to holders of the account under certain circumstances**; revising the definition of the term “fiduciary” for the purposes of certain provisions relating to the business of a trust company; authorizing funds held in a fiduciary capacity by a savings bank to be swept to the deposit accounts of the savings bank under certain circumstances; imposing certain requirements on savings banks relating to funds in a fiduciary account administered by a savings bank that are awaiting investment or distribution; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines “fiduciary” for the purposes of certain provisions governing the business of a trust company to include a servicer or administrator of individual retirement accounts. (NRS 669.045) **Section ~~HH~~ 1.3** of this bill excludes from the definition of “fiduciary” a trust company or a savings bank that acts as a custodian of individual retirement accounts or an affiliate of such a trust company or savings bank that provides services to the trust company or savings bank.

Existing law authorizes a savings bank to engage in the business of a trust company and imposes certain requirements and restrictions on a savings bank that engages in such trust company business. (NRS 673.228) **Section 2** of this bill makes various changes to reflect the addition of the provisions of **section ~~HH~~ 1.3** which provide that a savings bank acting as a custodian of an individual retirement account does not act as a fiduciary.

Existing law prohibits funds held in a fiduciary capacity by a savings bank from being used in the conduct of its business, but allows such funds to be invested in the deposit accounts maintained at the savings bank if a trust or custodial retirement plan does not prohibit the investment. (NRS 673.228) **Section 2** revises these provisions to instead authorize funds held in a fiduciary capacity by a savings bank to be invested in or swept to the deposit accounts of a savings bank if the instrument governing the trust retirement plan or other fiduciary account does not prohibit the practice.

Existing federal regulations set forth certain requirements for a national bank with respect to funds in a fiduciary account administered by the national bank that are awaiting investment or distribution. (12 C.F.R. § 9.10) **Section 2** sets forth certain requirements for a savings bank with respect to funds in a fiduciary account administered by the savings bank that are awaiting investment or distribution which are similar to the requirements for national banks set forth in existing federal regulations.

Sections 1 and 1.7 of this bill require a trust company or savings bank that assumes the role of custodian of an individual retirement account

from an affiliate of the trust company or savings bank, as applicable, or from another trust company or savings bank or affiliate thereof, to provide to each holder of the account certain notice of the assumption of the role of custodian of the account.

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

Section 1. Chapter 669 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a trust company or savings bank assumes the role of custodian for any individual retirement account within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. § 408(a), from:

(a) An affiliate of the trust company or savings bank, as applicable;

(b) Another trust company or savings bank; or

(c) An affiliate of another trust company or savings bank,

↪ the trust company or savings bank, as applicable, which is assuming the role of custodian shall, in the manner required pursuant to the terms of the documentation of the individual retirement account and any requirements set forth in applicable federal law, provide each holder of the account with notice that the trust company or savings bank, as applicable, is assuming the role of custodian of the account.

2. As used in this section, “savings bank” has the meaning ascribed to it in NRS 673.0317.

~~{Section 1.}~~ **Sec. 1.3.** NRS 669.045 is hereby amended to read as follows:

669.045 1. “Fiduciary” means a trustee, executor, administrator, guardian of an estate, personal representative, conservator, assignee for the benefit of creditors, receiver, depositary or person that receives on deposit money or property from a public administrator or a person employed or contracted with pursuant to NRS 253.125, as applicable, under any provision of this chapter or from another fiduciary.

2. As used in this section, “administrator” ~~{includes}~~ :

(a) Includes servicers or administrators of individual retirement accounts within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. § 408(a), where the servicer or administrator holds itself out to the public for performance of such services and holds or maintains an ownership interest in the servicing rights of such accounts, or possesses or controls any of the assets of such accounts, including cash.

(b) Does not include a trust company or savings bank that acts as a custodian for individual retirement accounts within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. § 408(a), or an affiliate of such a trust company or savings bank that provides services to the trust company or savings bank.

Sec. 1.7. Chapter 673 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a trust company or savings bank assumes the role of custodian for any individual retirement account within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. § 408(a), from:

(a) An affiliate of the trust company or savings bank, as applicable;

(b) Another trust company or savings bank; or

(c) An affiliate of another trust company or savings bank, ~~the trust company or savings bank, as applicable, which is assuming the~~ role of custodian shall, in the manner required pursuant to the terms of the documentation of the individual retirement account and any requirements set forth in applicable federal law, provide each holder of the account with notice that the trust company or savings bank, as applicable, is assuming the role of custodian of the account.

2. As used in this section, “trust company” has the meaning ascribed to it in NRS 669.070.

Sec. 2. NRS 673.228 is hereby amended to read as follows:

673.228 1. A savings bank shall have the powers, privileges and authorities to engage in trust company business, including engaging in **fiduciary or** custodial activities and establishing common trust funds, either directly or indirectly through a subsidiary, that any state bank, foreign bank, foreign savings bank, national bank or federal savings bank may exercise, subject to the requirements and conditions for engaging in such business of a trust company set forth in this section.

2. Before engaging in trust company business, a savings bank shall apply to the Commissioner on such form as he or she shall determine and pay the same fee as required for a state bank to engage in trust company business. In considering such an application, the Commissioner shall determine whether:

(a) The management and personnel of the savings bank are qualified to conduct trust company business;

(b) Trust company business will be adequately conducted in compliance with the law; and

(c) The financial and managerial resources of the savings bank are sufficient to support the conduct of trust company business.

3. A savings bank subscribing to trustee and custodial power authorized by this section shall be required to segregate all funds held in ~~such~~ a **fiduciary or custodial** capacity from the general assets of the savings bank and keep a separate set of books and records showing in proper detail all transactions engaged in under the authority of this section.

4. If individual records are kept of each self-employed individual retirement plan, all funds held in such trust or custodial capacity by the savings bank may be commingled for appropriate purposes of investment.

5. No funds held in a fiduciary capacity by a savings bank may be used by the savings bank in the conduct of its business, although such funds may be invested in **or swept to** the deposit accounts of the savings bank if the **instrument governing the** trust, ~~for custodial~~ retirement plan **or other**

fiduciary account does not prohibit the ~~investment~~ funds from being invested or swept as such.

6. With respect to a fiduciary account for which a savings bank has investment discretion or discretion over distributions, the savings bank shall not allow funds awaiting investment or distribution to remain uninvested and undistributed any longer than is reasonable for the proper management of the fiduciary account and consistent with applicable law. With respect to a fiduciary account for which a savings bank has investment discretion, the savings bank shall obtain for funds awaiting investment or distribution a rate of return that is consistent with applicable law.

7. A savings bank may deposit funds of a fiduciary account that are awaiting investment or distribution in the commercial, savings or another department of the savings bank, unless prohibited by applicable law. To the extent that the funds are not insured by the Federal Deposit Insurance Corporation, the savings bank shall set aside collateral as security, under the control of appropriate fiduciary officers and employees, in accordance with subsection 8. The market value of the collateral set aside must at all times equal or exceed the amount of the uninsured fiduciary funds.

8. A savings bank may satisfy the collateral requirement of subsection 7 with any of the following:

(a) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest;

(b) Securities that qualify as eligible for investment by savings banks in this State under applicable law;

(c) Readily marketable securities of the classes in which state banks, trust companies or other corporations exercising fiduciary powers are permitted to invest fiduciary funds under applicable state law;

(d) Surety bonds, to the extent that they provide adequate security, unless prohibited by applicable law; and

(e) Any other assets that qualify under applicable state law as appropriate security for deposits of fiduciary funds.

9. A savings bank, acting in its fiduciary capacity, may deposit funds of a fiduciary account that are awaiting investment or distribution with an affiliated insured depository institution, unless prohibited by applicable law. A savings bank may set aside collateral as security for a deposit by or with an affiliate of fiduciary funds awaiting investment or distribution, unless prohibited by applicable law.

10. As used in this section ~~the "business"~~ :

(a) "Applicable law" means the laws of this State governing the fiduciary relationships of a savings bank, any applicable federal law governing such relationships, the terms of the instrument governing a fiduciary relationship or any court order pertaining to such a relationship.

(b) "Business of a trust company" or "trust company business" has the meaning ascribed to it in NRS 669.029.

(c) *“Fiduciary account” means an account administered by a savings bank acting in a fiduciary capacity.*

(d) *“Fiduciary capacity” means:*

- (1) *Trustee;*
- (2) *Executor;*
- (3) *Administrator;*
- (4) *Registrar of stocks and bonds;*
- (5) *Transfer agent;*
- (6) *Guardian;*
- (7) *Assignee;*
- (8) *Receiver;*
- (9) *Custodian under chapter 167 of NRS;*

(10) *Investment advisor, if the savings bank receives a fee for its investment advice;*

(11) *Any capacity in which the savings bank possesses investment discretion on behalf of another; or*

(12) *Any other similar capacity that the Commissioner authorizes.*

(e) *“Guardian” means a guardian or conservator of the estate of a minor, an incompetent person, an absent person or a person over whose estate a court has taken jurisdiction, other than under laws governing bankruptcy or insolvency.*

(f) *“Investment discretion” means, with respect to an account, the sole or shared authority, whether or not that authority is exercised, to determine what securities or other assets to purchase or sell on behalf of the account. A savings bank that delegates its authority over investments and a savings bank that receives delegated authority over investments are both deemed to have investment discretion.*

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 623 to Assembly Bill No. 290.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 298.

The following Senate amendment was read:

Amendment No. 622.

AN ACT relating to vehicles; **establishing the conditions under which a default by a lessee in a consumer vehicle lease may be enforced;** setting forth certain requirements for a consumer vehicle lease; requiring certain lessors to use a lease agreement that satisfies those requirements; authorizing certain civil actions; revising certain definitions for certain purposes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law imposes certain requirements on the lessor of a vehicle in connection with a “commercial vehicle lease,” which is generally defined by

existing law to mean a lease of a single vehicle for a period of more than 4 months primarily for business or commercial purposes. (NRS 100.095, 100.105)

Sections 1.5-5.5 of this bill establish provisions that govern a “consumer vehicle lease,” which is generally defined in **section 6** of this bill to mean a lease of a single vehicle for a period of more than 4 months, primarily for personal, family or household purposes. **Section 1.5** of this bill ~~requires a lessor who is a dealer to use a lease agreement for a consumer vehicle lease of a new vehicle that~~ establishes the conditions under which the lessor in a consumer vehicle lease can enforce a term regarding a default by the lessee. **Section 2** of this bill requires a lessor who is a dealer to use a lease agreement for a consumer vehicle lease of a used vehicle that satisfies certain requirements and includes certain provisions, notices and disclosures that are established by that section. **Sections 4 and 5** of this bill set forth certain requirements for a consumer vehicle lease which are similar to certain requirements for retail installment contracts set forth in existing law. (NRS 97.165, 97.215) **Section 5.5** of this bill provides that a violation of existing law concerning vehicle leases or **sections 1.5-5.5** constitutes a deceptive trade practice, and authorizes a lessee and certain other persons to bring a civil action against a lessor for the violation. **Section 5.5** further provides that if the person bringing the action is the prevailing party, the court is required to award: (1) the person’s actual damages; (2) any appropriate equitable relief; and (3) the person’s costs and attorney’s fees.

Existing law defines the term “vehicle lease” to generally include only leases of a single vehicle for a period of more than 4 months where the lessee’s obligation upon termination or expiration of the lease is based on the excess of the unamortized capitalized cost of the vehicle over its residual value. (NRS 100.095) Existing law sets forth certain requirements for the establishment of the residual value of the vehicle at the termination or expiration of such a lease. (NRS 100.145, 100.155) **Section 6** defines the terms “closed-end vehicle lease” and “consumer vehicle lease” and revises the definition of the term “open-end vehicle lease” to establish that the lessee’s obligation upon termination or expiration of the lease is based on the difference between the residual value of the leased vehicle and its realized value. **Sections 7-9** of this bill change the term “vehicle lease” to “open-end consumer vehicle lease” to account for the addition of the provisions of **sections 1.5-5.5** concerning a consumer vehicle lease while maintaining the requirements of existing law concerning the establishment of the residual value of a leased vehicle.

Section 10 of this bill makes a conforming change to indicate the proper placement of **sections 1.5-5.5** in the Nevada Revised Statutes.

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

Section 1. Chapter 100 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 5.5, inclusive, of this act.

Sec. 1.5. ~~{1. A lessor who is a dealer shall use a lease agreement in connection with}~~ **Default on the part of the lessee in a consumer vehicle lease** ~~{for a new vehicle that contains a provision that default on the part of the lessee}~~ is only enforceable to the extent that:

~~{(a)}~~ **1.** The lessee fails to make a payment as required by the lease agreement, but in no case less than 30 days after the date required by the lease agreement; or

~~{(b)}~~ **2.** The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the lessor.

~~{ 2. As used in this section, "new vehicle" has the meaning ascribed to it in NRS 482.076. }~~

Sec. 2. **1.** A lessor who is a dealer shall use a lease agreement in connection with a consumer vehicle lease for a used vehicle that:

(a) Is accepted and acted upon by the lessor and any other person necessary to effectuate the lease.

(b) Contains any information required to be disclosed by the Consumer Leasing Act of 1976, 15 U.S.C. §§ 1667 et seq., and the regulations adopted pursuant thereto, including, without limitation, 12 C.F.R. Part 1013, commonly known as Regulation M.

(c) If the lease provides for the sale of goods or services, identifies and itemizes the goods sold or to be sold or services furnished or rendered or to be furnished or rendered and the price of each item of goods or services.

(d) Contains a provision that default on the part of the lessee is only enforceable to the extent that:

(1) The lessee fails to make a payment as required by the agreement, but in no case less than 30 days after the date required by the lease agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the lessor.

(e) Includes the following notice in at least 10-point bold type:

NOTICE TO LESSEE

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

(f) Limits late fees to the lesser of \$15 or 8 percent of any installment amount in default for more than 10 days.

(g) Contains a term regarding residual value in substantially the following form:

Residual value is the value of the leased vehicle at the end of the lease term, as estimated or assigned by the lessor. The residual value is the amount you will have to pay if you decide to buy this vehicle at the end of the lease term.

(h) Contains a term regarding early termination in substantially the following form:

If you terminate this lease before the end of the lease term, you will be responsible for the early termination charge. The early termination charge is the amount you still owe on the vehicle under the lease agreement, commonly referred to as the adjusted lease balance, minus the vehicle's current fair market value as estimated in the then current version of the Kelley Blue Book or its equivalent.

(i) Contains a term regarding default charges in substantially the following form:

If you default under the terms of this agreement, you will be liable for the adjusted lease balance described in paragraph (h) plus any actual costs incurred by the lessor to repossess the vehicle, prepare it for disposition and dispose of it by sale or other means minus the amounts received by the lessor from the disposition of the vehicle and the cancellation of any optional product or service you purchased as part of this agreement.

2. Before a lessor who is a dealer obtains the signature of a lessee on a consumer vehicle lease for a used vehicle, the lessor shall provide the lessee with the disclosures set forth in this subsection. The disclosures must:

(a) Identify the vehicle and identify and itemize any other goods or services included in the lease and, if the lease provides for the sale of goods or services, identify and itemize the goods sold or to be sold or services furnished or rendered or to be furnished or rendered and the price of the vehicle and each other item of goods or services.

(b) Be provided to the lessee before he or she signs the lease agreement, in a form the lessee can keep.

(c) Contain the signature of the lessee and any other party obligated by the terms of the lease agreement.

(d) Contain a notice that default on the part of the lessee is only enforceable to the extent that ~~it is~~ it is:

(1) The lessee fails to make a payment as required by the lease agreement, but in no case less than 30 days after the date required by the lease agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the lessor.

(e) *Provide to the lessee the following notices in both English and Spanish in at least 14-point bold type:*

NOTICE TO LESSEE

THIS IS NOT A SALES CONTRACT

THIS IS A LEASE. YOU ARE NOT BUYING THIS CAR. YOU WILL NOT OWN IT AT THE END OF THE CONTRACT TERM WITHOUT PAYING ADDITIONAL MONEY.

ESTE ES UN CONTRATO DE ARRENDAMIENTO. NO VAS A COMPRAR ESTE AUTO. USTED NO SERÁ DUEÑO AL FINAL DEL CONTRATO CON EL PAGO DE DINERO ADICIONAL.

NOTICE TO LESSEE

READ EVERYTHING CAREFULLY

Do not sign the agreement provided by the lessor before you read it or if it contains any blank spaces. You are entitled to a completed copy of the agreement. If there are oral promises not included in the written agreement, the written agreement will prevail. If you fail to perform your obligations under the agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by the agreement.

NOTICE TO LESSEE

THERE IS NO COOLING-OFF PERIOD

Nevada law does not provide for a “cooling off” or other cancellation period for vehicle leases. Therefore, you cannot later cancel the lease simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. You may cancel the lease only with the agreement of the lessor or for legal cause, such as fraud.

3. *If a lessor who is a dealer fails to obtain the signature of a lessee on the disclosures required by subsection 2 before obtaining the signature of the lessee on a consumer vehicle lease for a used vehicle, the consumer vehicle lease shall be deemed a retail installment contract for the sale of the vehicle.*

4. *If a consumer vehicle lease for a used vehicle includes a provision that conflicts with a provision of this section, the provision of this section will control.*

5. *As used in this section:*

(a) *“Retail installment contract” has the meaning ascribed to it in NRS 97.105.*

(b) *“Used vehicle” has the meaning ascribed to it in NRS 482.132.*

Sec. 3. (Deleted by amendment.)

Sec. 4. 1. *Except as otherwise provided in NRS 598.9715, every consumer vehicle lease must be contained in a single document which must contain the entire agreement of the parties, including any promissory notes or other evidences of indebtedness between the parties relating to the transaction.*

2. *The consumer vehicle lease must be dated, signed by the lessor and completed as to all essential provisions, except as otherwise provided in section 5 of this act. The printed or typed portion of the lease, other than instructions for completion, must be in a size equal to at least 8-point type.*

Sec. 5. *The lessor shall not obtain the signature of the lessee to any consumer vehicle lease when it contains blank spaces of items which are essential provisions of the transaction .~~It, except that if delivery of the vehicle leased or any goods purchased under the lease are not made at the time of the execution of the consumer vehicle lease, the identifying numbers or marks of the vehicle or goods or similar information and the due date of the first installment may be inserted by the lessor in the lessor's counterpart of the consumer vehicle lease after it has been signed by the lessee.~~*

Sec. 5.5. 1. *A violation of NRS 100.095 to 100.175, inclusive, and sections 1.5 to 5.5, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive. A lessee or other person who is a debtor or secondary obligor under the consumer vehicle lease may bring a civil action in any court of competent jurisdiction for such violation.*

2. *If the person bringing the action pursuant to subsection 1 is the prevailing party, the court shall award the person:*

- (a) Any damages that the person has sustained;*
- (b) Any equitable relief that the court deems appropriate; and*
- (c) The person's costs in the action and reasonable attorney's fees.*

Sec. 6. NRS 100.095 is hereby amended to read as follows:

100.095 As used in NRS 100.095 to 100.175, inclusive ~~it~~ *and sections 1.5 to 5.5, inclusive, of this act:*

1. *“Closed-end vehicle lease” means a ~~consumer~~ vehicle lease, other than an open-end vehicle lease, commonly referred to as a walk-away lease, in which the lessee is not responsible for the residual value of the leased vehicle at the end of the term of the lease.*

2. *“Commercial vehicle lease” means a bailment or lease of a single vehicle by a person for a period of more than 4 months for a total contractual obligation not exceeding \$25,000, primarily for business or commercial purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the vehicle at the termination or expiration of the lease. The term includes a bailment or lease where the lessee becomes or may become owner of the vehicle by payment to the lessor of an amount which is substantially equal to the residual value or the unamortized capitalized cost, if the payment is not nominal. The term does not include a bailment or lease where the lessee contracts to pay as compensation for use of the vehicle a sum*

substantially equivalent to or in excess of the capitalized cost of the vehicle and it is agreed that the lessee may become the owner for no other consideration or for a nominal consideration.

~~{2-}~~ 3. *“Consumer vehicle lease” means a contract in the form of a bailment or lease of a single vehicle by a person for a period of more than 4 months, primarily for personal, family or household purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the vehicle at the expiration of the lease. The term includes:*

- (a) A closed-end vehicle lease;*
- (b) An open-end vehicle lease; and*
- (c) A bailment or lease entered into primarily for personal, family or household purposes where the lessee becomes or may become owner of the vehicle by payment to the lessor of an amount which is substantially equal to the residual value or the unamortized capitalized cost, if the payment is not nominal.*

4. *“Dealer” has the meaning ascribed to it in NRS 482.020.*

5. *“Open-end vehicle lease” means a ~~consumer~~ vehicle lease where the lessee’s obligation upon termination or expiration of the lease is based on the difference between the residual value of the leased vehicle and its realized value.*

6. “Person” includes any governmental entity.

~~{3-}~~ 7. “Vehicle” means every device in, upon or by which any person or property is or may be transported upon a public highway, except devices:

- (a) Moved by human power;
- (b) Used exclusively upon stationary rails or tracks; or
- (c) Having a gross vehicle weight of more than 10,000 pounds, exclusive of the weight of any slide-in camper as defined in NRS 482.113 which may be on it.

➡ The term does not include electric personal assistive mobility devices as defined in NRS 482.029.

~~{4-} “Vehicle lease” means a bailment or lease of a single vehicle by a person for a period of more than 4 months where the lessee’s obligation upon termination or expiration of the lease is based on the excess of the unamortized capitalized cost of the vehicle over its residual value as established pursuant to the provisions of NRS 100.145. The term includes a bailment or lease where the lessee becomes or may become owner of the vehicle by payment to the lessor of an amount which is substantially equal to the residual value or the unamortized capitalized cost, if the payment is not nominal.~~

Sec. 7. NRS 100.145 is hereby amended to read as follows:

100.145 1. Where the lessee’s liability on the date any *open-end consumer* vehicle lease or commercial vehicle lease terminates or expires is based on the residual value of the vehicle at that time and the lessor and lessee do not agree in writing on that value or on another method of establishing it, the lessor may, subject to the provisions of NRS 100.165, for the purpose of

establishing residual value and thereby providing the basis for determining the lessee's liability, obtain written bids from third persons.

2. The lessor shall act in good faith and in a commercially reasonable manner in obtaining bids for the vehicle. The fact that a better price could have been obtained at a different time or in a different method from that selected by the lessor is not of itself sufficient to establish that the lessor did not act in a commercially reasonable manner. If the lessor obtains bids at the price current in any recognized market for such a vehicle at the time of the bidding, the lessor has acted in a commercially reasonable manner.

3. The highest effective bid obtained pursuant to this section or NRS 100.165, where applicable, or the actual sale price, whichever is higher, establishes the residual value of the vehicle.

Sec. 8. NRS 100.155 is hereby amended to read as follows:

100.155 1. The lessor shall give the lessee written notice of his or her intention to establish the residual value of the vehicle under the ***open-end consumer*** vehicle lease or commercial vehicle lease at least 15 days before that action is taken. The notice must be given in person to the lessee or sent by mail to the address of the lessee shown on the lease, or to the lessee's last known address, unless the lessee has notified the lessor in writing of a different address.

2. The notice must:

(a) List separately any actual or estimated charges due under the ***open-end consumer*** vehicle lease or commercial vehicle lease as of the date of the notice, notwithstanding any possible limitations on the liability of the lessee provided by the Consumer Leasing Act of 1976 (15 U.S.C. § 1667b);

(b) Inform the lessee that the lessee has the right to submit a written bid for the purchase of the vehicle before its value is established; and

(c) Inform the lessee of the probable residual value of comparable vehicles on the date of the notice as estimated in the then current version of the Kelley Blue Book or its equivalent.

3. If the lease is not in default and has not been terminated before its scheduled expiration, the notice must also inform the lessee that his or her maximum total liability under the ***open-end consumer*** vehicle lease or commercial vehicle lease is limited to three times the average payment allocable to a monthly period under the lease if the estimated residual value exceeds the actual residual value and the difference is not the result of physical damage to the vehicle beyond reasonable wear and use or to excessive use.

Sec. 9. NRS 100.175 is hereby amended to read as follows:

100.175 If the lessor under ~~an~~ ***an open-end consumer*** vehicle lease or a commercial vehicle lease fails to comply with NRS 100.145 to 100.165, inclusive, the lessor may not recover any deficiency from the lessee.

Sec. 10. NRS 104A.2104 is hereby amended to read as follows:

104A.2104 1. A lease, although subject to this Article, is also subject to any applicable:

(a) Certificate of title statute of this State, including any applicable provision of chapters 482, 488, 489 and 490 of NRS;

(b) Certificate of title statute of another jurisdiction (NRS 104A.2105); or

(c) Consumer protection statute of this State, including any applicable provision of NRS 97.297, 97.299, 97.301 and 100.095 to 100.175, inclusive, **and sections 1.5 to 5.5, inclusive, of this act** and a final decision of a court of this State concerning the protection of consumers rendered before January 1, 1990.

2. In case of conflict between this Article, other than NRS 104A.2105, subsection 3 of NRS 104A.2304 and subsection 3 of NRS 104A.2305, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 622 to Assembly Bill No. 298.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 327.

The following Senate amendment was read:

Amendment No. 555.

ASSEMBLYMEN TORRES, NGUYEN, BROWN-MAY; ANDERSON, BENITEZ-THOMPSON, BILBRAY-AXELROD, CONSIDINE, DURAN, GONZÁLEZ, GORELOW, LEAVITT, MARTINEZ, MARZOLA, BRITTNEY MILLER, ORENTLICHER, PETERS, ROBERTS, THOMAS, TOLLES AND WATTS

JOINT SPONSOR: ~~SENATOR~~ SENATORS DONATE AND SPEARMAN

AN ACT relating to mental health; requiring certain mental health professionals to complete continuing education concerning cultural competency and diversity, equity and inclusion; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires behavior analysts, physicians, physician assistants, nurses, psychologists, marriage and family therapists, clinical professional counselors, social workers, clinical alcohol and drug counselors, alcohol and drug counselors and problem gambling counselors to complete certain continuing education as a condition to the renewal of a license or certificate. (NRS 437.225, 630.253, 632.343, 633.471, 641.220, 641A.260, 641B.280, 641C.450) Existing law requires certain facilities that provide health care to conduct training relating to cultural competency for any agent or employee of such a facility who provides care to a patient or resident of the facility. (NRS 449.103) **Sections 1-7.5** of this bill require a psychiatrist, physician assistant practicing under the supervision of a psychiatrist, nurse, marriage and family therapist, clinical professional counselor, social worker, clinical alcohol and drug counselor, alcohol and drug counselor, problem gambling counselor or

behavior analyst to complete a certain number of hours of instruction concerning cultural competency and diversity, equity and inclusion as part of that continuing education. **Sections 1-7.5** authorize such a provider who receives training relating to cultural competency as the employee of a facility that provides health care to use that training to satisfy the requirement that such a provider complete a certain number of hours of instruction concerning cultural competency and diversity, equity and inclusion. **Sections 1-7.5 require such cultural competency training to address persons from different cultural backgrounds, including: (1) persons from various gender, racial and ethnic backgrounds; (2) persons from various religious backgrounds; (3) lesbian, gay, bisexual, transgender and questioning persons; (4) children and senior citizens; (5) veterans; (6) persons with mental illness; (7) persons with an intellectual disability, developmental disability or physical disability; and (8) other populations designated by the applicable licensing Board.**

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

Section 1. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

- (a) Renewal of a license as a physician assistant; or
- (b) Biennial registration of the holder of a license to practice medicine,

↪ require each holder to submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

- (1) An overview of acts of terrorism and weapons of mass destruction;
- (2) Personal protective equipment required for acts of terrorism;
- (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (5) An overview of the information available on, and the use of, the Health Alert Network.

(c) Must provide for the completion by a holder of a license to practice medicine of a course of instruction within 2 years after initial licensure that provides at least 2 hours of instruction on evidence-based suicide prevention and awareness as described in subsection ~~5.1~~ 6.

(d) Must provide for the biennial completion by each psychiatrist and each physician assistant practicing under the supervision of a psychiatrist of one or more courses of instruction that provide at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction ~~may~~:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a psychiatrist or a physician assistant practicing under the supervision of a psychiatrist may need to better understand, as determined by the Board.

~~{ }~~

3. The Board may ~~{thereafter}~~ determine whether to include in a program of continuing education ~~{additional}~~ courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction ~~{ }~~ *in addition to the course of instruction required by paragraph (b) of subsection 2.*

~~{3-}~~ 4. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

~~{4-}~~ 5. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

~~§5-1~~ 6. The Board shall require each holder of a license to practice medicine to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness, which may include, without limitation, instruction concerning:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

~~§6-1~~ 7. The Board shall encourage each holder of a license to practice medicine or as a physician assistant to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:

(a) Recognizing the symptoms of pediatric cancer; and

(b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.

~~§7-1~~ 8. A holder of a license to practice medicine may not substitute the continuing education credits relating to suicide prevention and awareness required by this section for the purposes of satisfying an equivalent requirement for continuing education in ethics.

~~§8-1~~ 9. A holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in pain management or care for persons with an addictive disorder for the purposes of satisfying an equivalent requirement for continuing education in ethics.

~~§9-1~~ 10. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.

(b) “Biological agent” has the meaning ascribed to it in NRS 202.442.

(c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.

(d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.

(e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.

Sec. 2. NRS 632.343 is hereby amended to read as follows:

632.343 1. The Board shall not renew any license issued under this chapter until the licensee has submitted proof satisfactory to the Board of completion, during the 2-year period before renewal of the license, of 30 hours in a program of continuing education approved by the Board in accordance with regulations adopted by the Board. Except as otherwise provided in subsection 3, the licensee is exempt from this provision for the first biennial period after graduation from:

(a) An accredited school of professional nursing;

(b) An accredited school of practical nursing;

(c) An approved school of professional nursing in the process of obtaining accreditation; or

(d) An approved school of practical nursing in the process of obtaining accreditation.

2. The Board shall review all courses offered to nurses for the completion of the requirement set forth in subsection 1. The Board may approve nursing and other courses which are directly related to the practice of nursing as well as others which bear a reasonable relationship to current developments in the field of nursing or any special area of practice in which a licensee engages. These may include academic studies, workshops, extension studies, home study and other courses.

3. The program of continuing education required by subsection 1 must include:

(a) For a person licensed as an advanced practice registered nurse, a course of instruction to be completed within 2 years after initial licensure that provides at least 2 hours of instruction on suicide prevention and awareness as described in subsection ~~5~~ 6.

(b) For each person licensed pursuant to this chapter, a course of instruction, to be completed within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

- (1) An overview of acts of terrorism and weapons of mass destruction;
- (2) Personal protective equipment required for acts of terrorism;
- (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (5) An overview of the information available on, and the use of, the Health Alert Network.

(c) For each person licensed pursuant to this chapter, one or more courses of instruction that provide at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion to be completed biennially. Such instruction ~~may~~ :

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a person licensed pursuant to this chapter may need to better understand, as determined by the Board.

~~{-}~~

4. The Board may ~~{thereafter}~~ determine whether to include in a program of continuing education ~~{additional}~~ courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction ~~{-}~~ ***in addition to the course of instruction required by paragraph (b) of subsection 3.***

~~{4-}~~ 5. The Board shall encourage each licensee who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

- (a) The skills and knowledge that the licensee needs to address aging issues;
- (b) Approaches to providing health care to older persons, including both didactic and clinical approaches;
- (c) The biological, behavioral, social and emotional aspects of the aging process; and
- (d) The importance of maintenance of function and independence for older persons.

~~{5-}~~ 6. The Board shall require each person licensed as an advanced practice registered nurse to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

~~{6-}~~ 7. The Board shall encourage each person licensed as an advanced practice registered nurse to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:

- (a) Recognizing the symptoms of pediatric cancer; and
- (b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.

~~{7-}~~ 8. As used in this section:

- (a) “Act of terrorism” has the meaning ascribed to it in NRS 202.4415.
- (b) “Biological agent” has the meaning ascribed to it in NRS 202.442.
- (c) “Chemical agent” has the meaning ascribed to it in NRS 202.4425.
- (d) “Radioactive agent” has the meaning ascribed to it in NRS 202.4437.
- (e) “Weapon of mass destruction” has the meaning ascribed to it in NRS 202.4445.

Sec. 3. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~101~~ **11** and NRS 633.491, every holder of a license issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;
- (c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;
- (d) Submitting evidence to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and
- (e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. The Board shall require each holder of a license to practice osteopathic medicine to complete a course of instruction within 2 years after initial licensure that provides at least 2 hours of instruction on evidence-based suicide prevention and awareness as described in subsection 8.

5. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

6. The Board shall encourage each holder of a license to practice osteopathic medicine or as a physician assistant to receive, as a portion of his or her continuing education, training and education in the diagnosis of rare diseases, including, without limitation:

- (a) Recognizing the symptoms of pediatric cancer; and

(b) Interpreting family history to determine whether such symptoms indicate a normal childhood illness or a condition that requires additional examination.

7. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of at least 2 hours of continuing education credits in ethics, pain management or care of persons with addictive disorders.

8. The Board shall require each holder of a license to practice osteopathic medicine to receive as a portion of his or her continuing education at least 2 hours of instruction every 4 years on evidence-based suicide prevention and awareness which may include, without limitation, instruction concerning:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

9. A holder of a license to practice osteopathic medicine may not substitute the continuing education credits relating to suicide prevention and awareness required by this section for the purposes of satisfying an equivalent requirement for continuing education in ethics.

10. *The Board shall require each psychiatrist or a physician assistant practicing under the supervision of a psychiatrist to biennially complete one or more courses of instruction that provide at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction ~~may~~ :*

(a) May include the training provided pursuant to NRS 449.103, where applicable.

(b) Must be based upon a range of research from diverse sources.

(c) Must address persons of different cultural backgrounds, including, without limitation:

(1) Persons from various gender, racial and ethnic backgrounds;

(2) Persons from various religious backgrounds;

(3) Lesbian, gay, bisexual, transgender and questioning persons;

(4) Children and senior citizens;

(5) Veterans;

(6) Persons with a mental illness;

(7) Persons with an intellectual disability, developmental disability or physical disability; and

(8) Persons who are part of any other population that a psychiatrist or physician assistant practicing under the supervision of a psychiatrist may need to better understand, as determined by the Board.

11. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 4. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

- (a) Apply to the Board for renewal;
- (b) Pay the biennial fee for the renewal of a license;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board.

4. The requirements for continuing education adopted by the Board pursuant to subsection 3 must include, without limitation ~~1-4~~:

(a) A requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate. The hours of instruction required by this ~~subsection~~ paragraph must be completed within 2 years after initial licensure and at least every 4 years thereafter.

(b) A requirement that the holder of a license must biennially receive at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction ~~may~~:

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license may need to better understand, as determined by the Board.

Sec. 5. NRS 641A.260 is hereby amended to read as follows:

641A.260 1. To renew a license to practice as a marriage and family therapist or clinical professional counselor issued pursuant to this chapter, each person must, on or before 10 business days after the date of expiration of his or her current license:

- (a) Apply to the Board for renewal;
- (b) Pay the fee for the biennial renewal of a license set by the Board;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board, unless the Board has granted a waiver pursuant to NRS 641A.265; and
- (d) Submit all information required to complete the renewal.

2. Except as otherwise provided in NRS 641A.265, the Board shall, as a prerequisite for the renewal of a license to practice as a marriage and family therapist or clinical professional counselor, require each holder to comply with the requirements for continuing education adopted by the Board, which must include, without limitation ~~the~~ :

(a) A requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

(b) A requirement that the holder receive at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction ~~may~~ :

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a marriage and family therapist or clinical professional counselor may need to better understand, as determined by the Board.

Sec. 6. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by:

- (a) Applying to the Board for renewal;
- (b) Paying the annual renewal fee set by the Board;

(c) Submitting evidence to the Board of completion of the required continuing education as set forth in regulations adopted by the Board; and

(d) Submitting all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the requirements for continuing education adopted by the Board, which must include, without limitation ~~the~~ :

(a) A requirement that every 2 years the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate.

(b) *A requirement that every 2 years the holder receive at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction ~~may~~ :*

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license issued pursuant to this chapter may need to better understand, as determined by the Board.

Sec. 7. NRS 641C.450 is hereby amended to read as follows:

641C.450 Except as otherwise provided in NRS 641C.310, 641C.320, 641C.440 and 641C.530, a person may renew his or her license or certificate by submitting to the Board:

1. An application for the renewal of the license or certificate. ~~the~~

2. The fee for the renewal of a license or certificate prescribed in NRS 641C.470. ~~the~~

3. Evidence of completion of the continuing education required by the Board, which must include, without limitation ~~the~~ :

(a) A requirement that the applicant receive at least 1 hour of instruction on evidence-based suicide prevention and awareness or another course of instruction on suicide prevention and awareness that is approved by the Board which the Board has determined to be effective and appropriate for each year of the term of the applicant's licensure or certification. ~~the~~

(b) *A requirement that the applicant receive at least 1 hour of instruction relating to cultural competency and diversity, equity and inclusion for each*

year of the term of the applicant's licensure or certification. Such instruction ~~may~~ **must** :

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that the holder of a license or certificate may need to better understand, as determined by the Board.

4. If the applicant is a certified intern, the name of the licensed or certified counselor who supervises the applicant. ~~}; and~~

5. All information required to complete the renewal.

Sec. 7.5. NRS 437.225 is hereby amended to read as follows:

437.225 1. To renew a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Division for renewal;

(b) Pay the biennial fee for the renewal of a license or registration;

(c) Submit evidence to the Division:

(1) Of completion of the requirements for continuing education as set forth in regulations adopted by the Board, if applicable; and

(2) That the person's certification or registration, as applicable, by the Behavior Analyst Certification Board, Inc., or its successor organization, remains valid and the holder remains in good standing; and

(d) Submit all information required to complete the renewal.

2. In addition to the requirements of subsection 1, to renew registration as a registered behavior technician for the third time and every third renewal thereafter, a person must submit to an investigation of his or her criminal history in the manner prescribed in paragraph (b) of subsection 1 of NRS 437.200.

3. The Board shall adopt regulations that require, as a prerequisite for the renewal of a license as a behavior analyst or assistant behavior analyst, each holder to complete continuing education, which must:

(a) Be consistent with nationally recognized standards for the continuing education of behavior analysts or assistant behavior analysts, as applicable. ~~}; and~~

(b) Include, without limitation, a ~~a~~

~~(1) A~~ requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.

~~(2) A~~ ***(c) Include, without limitation, a requirement that the holder of a license as a behavior analyst receive at least 2 hours of instruction relating to cultural competency and diversity, equity and inclusion. Such instruction*** ~~may~~ ***:***

(1) May include the training provided pursuant to NRS 449.103, where applicable.

(2) Must be based upon a range of research from diverse sources.

(3) Must address persons of different cultural backgrounds, including, without limitation:

(I) Persons from various gender, racial and ethnic backgrounds;

(II) Persons from various religious backgrounds;

(III) Lesbian, gay, bisexual, transgender and questioning persons;

(IV) Children and senior citizens;

(V) Veterans;

(VI) Persons with a mental illness;

(VII) Persons with an intellectual disability, developmental disability or physical disability; and

(VIII) Persons who are part of any other population that a behavior analyst may need to better understand, as determined by the Board.

4. The Board shall not adopt regulations requiring a registered behavior technician to receive continuing education.

Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7.5, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 555 to Assembly Bill No. 327.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 436.

The following Senate amendment was read:

Amendment No. 619.

AN ACT relating to health care; prohibiting an insurer from entering into a contract with a provider of vision care that contains certain provisions; requiring an insurer to provide certain information to a provider of vision care before entering into a contract to include the provider in the network of the insurer; prescribing certain requirements concerning the advertising and

marketing of vision coverage; authorizing the imposition of an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits certain unfair trade practices in the business of insurance. (NRS 686A.010-686A.280) **Section 1** of this bill prohibits an insurer from entering into a contract with a provider of vision care that places certain limitations on coverage. **Section 1** also requires an insurer to provide to a provider of vision care a list of the rates of reimbursement that the insurer provides for covered vision care before entering into a contract to include the provider of vision care in the network of the insurer. **Section 1** additionally: (1) requires an insurer to disclose in any policy of vision insurance or related materials any ownership or other pecuniary interest of the insurer in a manufacturer of goods covered by the policy or in a provider of vision care; and (2) imposes certain restrictions on the manner in which an insurer may advertise a policy of insurance that covers vision care. **Sections 2 and 3** of this bill authorize the Commissioner of Insurance to enforce the requirements of **section 1** in the same manner as other provisions governing the trade practices of insurers. Specifically, **section 2** authorizes the Commissioner to hold a hearing if he or she has cause to believe that a violation of **section 1** has occurred. If the Commissioner finds after that hearing that a violation has occurred and the insurer in violation knew or should have known of the violation, **section 3** authorizes the Commissioner to impose an administrative penalty or take action against the license of the insurer. **Sections 4-9** of this bill provide that certain entities that provide vision coverage, including local governments and the Public Employees' Benefits Program, are subject to the provisions of **section 1**.

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

Section 1. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer shall not enter into a contract with a provider of vision care that conditions any rate of reimbursement for vision care on the provider of vision care prescribing ophthalmic devices or materials in which the insurer has an ownership or other pecuniary interest or increases the rate of reimbursement if the provider of vision care prescribes such ophthalmic devices or materials.

2. Before entering into a contract with a provider of vision care to include the provider of vision care in the network of an insurer, the insurer must provide to the provider of vision care a list of the rates of reimbursement for each service covered by the contract.

3. An insurer shall disclose in any policy of insurance that covers vision care or any description of benefits covered by such a policy, whether written or electronic, any ownership or other pecuniary interest of the insurer in a

supplier of ophthalmic devices or materials or a provider of vision care. The disclosure must appear in a conspicuous and clear manner.

4. *An insurer that does not provide reimbursement for specific vision care shall not claim in any advertisement or other material that the insurer covers that vision care ~~for that~~ if such vision care is available at a discount or with a copayment or coinsurance in an amount that is in addition to the copayment or coinsurance that a covered person is typically required to pay for covered services.*

5. *As used in this section:*

(a) *“Provider of vision care” means a physician who provides vision care or an optometrist.*

(b) *“Vision care” means:*

(1) *Routine ophthalmological evaluation of the eye, including refraction.*

(2) *Ophthalmic devices or materials, including, without limitation, lenses, frames, mountings or other specially fabricated ophthalmic devices.*

↪ *The term “vision care” does not include the initiation of treatment or diagnosis pursuant to a program of medical care.*

Sec. 2. NRS 686A.160 is hereby amended to read as follows:

686A.160 If the Commissioner has cause to believe that any person has been engaged or is engaging, in this state, in any unfair method of competition or any unfair or deceptive act or practice prohibited by NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act** and that a proceeding by the Commissioner in respect thereto would be in the interest of the public, the Commissioner may issue and serve upon such person a statement of the charges and a notice of the hearing to be held thereon. The statement of charges and notice of hearing shall comply with the requirements of NRS 679B.320 and shall be served upon such person directly or by certified or registered mail, return receipt requested.

Sec. 3. NRS 686A.183 is hereby amended to read as follows:

686A.183 1. After the hearing provided for in NRS 686A.160, the Commissioner shall issue an order on hearing pursuant to NRS 679B.360. If the Commissioner determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice in violation of NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act**, the Commissioner shall order the person to cease and desist from engaging in that method of competition, act or practice, and may order one or both of the following:

(a) If the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act**, payment of an administrative fine of not more than \$5,000 for each act or violation, except that as to licensed agents, brokers, solicitors and adjusters, the administrative fine must not exceed \$500 for each act or violation.

(b) Suspension or revocation of the person's license if the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive ~~††~~, **and section 1 of this act.**

2. Until the expiration of the time allowed for taking an appeal, pursuant to NRS 679B.370, if no petition for review has been filed within that time, or, if a petition for review has been filed within that time, until the official record in the proceeding has been filed with the court, the Commissioner may, at any time, upon such notice and in such manner as the Commissioner deems proper, modify or set aside, in whole or in part, any order issued by him or her under this section.

3. After the expiration of the time allowed for taking an appeal, if no petition for review has been filed, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him or her under this section whenever in the opinion of the Commissioner conditions of fact or of law have so changed as to require such action or if the public interest so requires.

Sec. 4. NRS 686A.520 is hereby amended to read as follows:

686A.520 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and 686A.010 to 686A.310, inclusive, **and section 1 of this act** apply to companies.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "company."

Sec. 5. NRS 695B.320 is hereby amended to read as follows:

695B.320 1. Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, **and section 1 of this act**, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters 692B, 692C, 693A and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

2. For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term "insurer."

Sec. 6. NRS 695C.300 is hereby amended to read as follows:

695C.300 1. No health maintenance organization or representative thereof may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading or any form of evidence of coverage which is deceptive. For purposes of this chapter:

(a) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health care plan.

(b) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue if, in the total context in which such

statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health care plan if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

(c) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format as well as language, shall be such as to cause a reasonable person not possessing special knowledge regarding health care plans and evidences of coverage therefor to expect benefits, services, charges or other advantages which the evidence of coverage does not provide or which the health care plan issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

2. NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act* shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the nature of health maintenance organizations, health care plans and evidences of coverage render the sections therein clearly inappropriate.

3. An enrollee may not be cancelled or not renewed except for the failure to pay the charge for such coverage or for cause as determined in the master contract.

4. No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words “insurance,” “casualty,” “surety,” “mutual” or any other words descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this State.

5. No person not certificated under this chapter shall use in its name, contracts or literature the phrase “health maintenance organization” or the initials “HMO.”

Sec. 7. NRS 695F.090 is hereby amended to read as follows:

695F.090 1. Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

(a) NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.

(b) NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.

(c) The requirements of NRS 679B.152.

(d) The fees imposed pursuant to NRS 449.465.

(e) NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act* concerning trade practices and frauds.

(f) The assessment imposed pursuant to NRS 679B.700.

(g) Chapter 683A of NRS.

(h) To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

(i) NRS 689A.035, 689A.0463, 689A.410, 689A.413 and 689A.415.

(j) NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”

(k) Chapter 692C of NRS, concerning holding companies.

(l) NRS 689A.637, concerning health centers.

2. For the purposes of this section and the provisions set forth in subsection 1, a prepaid limited health service organization is included in the meaning of the term “insurer.”

Sec. 8. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The

provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, 689B.287 and 689B.500 *and section 1 of this act* apply to coverage provided pursuant to this paragraph, except that the provisions of NRS 689B.0378, 689B.03785 and 689B.500 only apply to coverage for active officers and employees of the governing body, or the dependents of such officers and employees.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 9. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 687B.409, 689B.255, 695G.150, 695G.155, 695G.160, 695G.162, 695G.164, 695G.1645, 695G.1665, 695G.167, 695G.170 to 695G.174, inclusive, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, **and section 1 of this act**, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. The provisions of section 1 of this act do not apply to any contract existing on October 1, 2021, between an insurer and a provider of vision care until the contract is renewed.

Sec. 14. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Assemblywoman Jauregui moved that the Assembly concur in the Senate Amendment No. 619 to Assembly Bill No. 436.

Remarks by Assemblywoman Jauregui.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 42.

The following Senate amendment was read:

Amendment No. 655.

AN ACT relating to crimes; requiring certain batteries which constitute domestic violence to be charged with certain felonies and gross misdemeanors; expanding the courts that are required to conduct a jury trial under certain circumstances; revising various provisions relating to jury trials; authorizing the use of sound recording equipment under certain circumstances; making various changes regarding the jurisdiction of municipal courts; revising provisions governing the selection of jurors; establishing a right to a jury trial under certain circumstances; prohibiting a person convicted of a battery which constitutes domestic violence or the same or similar conduct in another jurisdiction from owning or having in his or her possession or under his or her custody or control any firearm; **revising the circumstances under which a prosecuting attorney is authorized to dismiss a charge of battery which constitutes domestic violence;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

In 1983, the Nevada Supreme Court held that NRS 175.011 does not establish a statutory right to a trial by jury upon demand in every case because: (1) the statute does not expressly state the Legislature’s intent to grant a substantive right to trial by jury, but rather it is only intended to establish procedural requirements; and (2) there is no constitutional right to a jury trial for “petty” offenses. (*State v. Smith*, 99 Nev. 806, 808-810 (1983)). The United States Supreme Court later ruled that an offense with a maximum period of incarceration of 6 months or less is presumptively petty and to overcome that presumption a defendant must prove that any additional statutory penalties, together with the maximum period of incarceration, are so severe that they clearly reflect that the offense is serious and thus triggers a right to a jury trial pursuant to the Sixth Amendment to the United States Constitution and Section 3 of Article 1 of the Nevada Constitution. (*Blanton v. City of N. Las Vegas*, 489 U.S. 538, 543 (1989)) In 2019, the Nevada Supreme Court held that a battery which constitutes domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 is a serious offense, if it imposes a limitation on the possession of a firearm, thereby triggering a constitutional right to a jury trial. The Court reasoned that Legislature elevated the seriousness of the offense when it amended NRS 202.360 in 2015, thereby limiting a person’s constitutional right to bear arms by prohibiting the possession or control of any firearm by a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). (*Andersen v. Eighth Jud. Dist. Ct.*, 135 Nev. 321, 323-324 (2019))

Under existing law, a person convicted of a battery which constitutes domestic violence for the first offense within 7 years is guilty of a misdemeanor and shall be punished by: (1) imprisonment in a city or county jail or detention center for not less than 2 days, but not more than 6 months; (2) community service; and (3) a fine of not less than \$200 but not more than \$1,000. (NRS 200.485) **Section 12** of this bill establishes a statutory right to a jury trial for a person charged with a battery which constitutes domestic violence that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm.

Section 12 also requires the provision of a jury trial regardless of whether the person has previously been prohibited from owning, possessing or having under his or her control or custody any firearm.

Existing law requires certain misdemeanors which would otherwise be under the jurisdiction of a municipal court to be charged in the same criminal complaint with related felonies and gross misdemeanors in the district court. (NRS 173.115) **Section 1** of this bill additionally requires a battery which constitutes domestic violence that is punishable as a misdemeanor to be charged in the same indictment or information in district court if the battery arises out of the same act as a felony or gross misdemeanor.

Existing law requires that certain cases in a district court must be tried by a jury unless the defendant waives such a trial in writing with the approval of the court and the consent of the State. (NRS 175.011) **Section 2** of this bill: (1) expands the courts in which such cases must be tried by a jury, which would necessarily include a justice court and municipal court for certain cases required to be so tried by the United States Constitution, the Nevada Constitution or statute; and (2) accordingly revises the person to whom consent must be given.

Existing law requires the trial of a criminal action conducted in: (1) district court to be tried by a jury of 12 jurors unless before verdict the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6; and (2) justice court to be tried by a jury of 6 jurors. (NRS 175.021) **Section 3** of this bill requires that all criminal actions, whether in district court, justice court or municipal court, must be tried by a jury of 12 jurors unless before jury selection the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6.

Existing law directs, in relation to the procedures for conducting jury trials, the State, as prosecutor, to perform certain duties. (NRS 175.051, 175.141) **Sections 4 and 5** of this bill revise the persons required to perform such duties to include any prosecuting attorney, which may include the city attorney for jury trials conducted in a municipal court. Existing law also directs, in relation to the procedures for conducting jury trials, the sheriff of each county to perform certain duties. (NRS 6.090, 175.421) **Sections 6 and 10** of this bill revise the persons required to perform such duties to include the chief of police or chief marshal, as applicable.

Existing law requires proceedings in justice court to be recorded by the use of sound recording equipment under certain circumstances. (NRS 4.390) Existing law also specifies that certain courts are courts of record, including the municipal courts in any case in which a jury trial is required or if designated as courts of record. (NRS 1.020) **Section 7** of this bill authorizes a municipal court to record any proceeding before a jury by the use of sound recording equipment, if the municipal court has been designated as a court of record.

Existing law sets forth the powers and jurisdiction of municipal courts and limits such municipal courts in cities incorporated by general law to proceedings and trials that are summary and without a jury. (NRS 5.050, 266.550) **Section 8** of this bill allows municipal courts to conduct jury trials: (1) for a matter within the jurisdiction of the court; and (2) where such a trial is required pursuant to the United States Constitution, the Nevada Constitution or statute. **Section 14** of this bill allows for jury trials under such circumstances in municipal courts within cities incorporated by general law. **Section 15** of this bill similarly allows for jury trials under such circumstances in municipal courts within all incorporated cities, including those cities created pursuant to the enactment of a city charter.

Existing law authorizes a district court to assign a jury commissioner to select trial jurors. Existing law also requires a jury commissioner so assigned to select trial jurors from qualified electors of the county not exempt from jury duty, whether registered as voters or not. (NRS 6.045) **Section 9** of this bill: (1) extends the courts authorized to assign a jury commissioner to include justice courts and municipal courts, which are located in a city whose population is 220,000 or more; and (2) allows a court to contract with another court for the services provided by a jury commissioner. **Section 16** of this bill makes a conforming change related to the selection of jurors in a city.

Existing law sets forth certain fees for attendance and travel allowances for jurors summoned or serving on a jury in a district court or justice court. (NRS 6.150) **Section 11** of this bill extends such fees and allowances for jurors summoned to or serving on a jury in a municipal court.

Existing law provides that in a county whose population is 700,000 or more (currently Clark County), a justice of the peace must summon a sufficient number of jurors to form a jury from the qualified electors of the county. In all other counties, a justice of the peace may summon jurors from the city, precinct or township. (NRS 67.010) **Section 11.7** of this bill provides that in all counties, jurors must be summoned from the qualified electors of the county. **Section 11.3** of this bill makes a conforming change to reflect the change made in **section 11.7**.

If a person is charged with committing a battery which constitutes domestic violence, existing law prohibits a prosecuting attorney from dismissing the charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge, or for any other reason, unless the charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.485) Section 12 removes the prohibition, thereby authorizing a prosecuting attorney to dismiss a charge of battery which constitutes domestic violence under such circumstances.

Existing law prohibits certain persons from owning or having in their possession or under their custody or control any firearm, including a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). A person who violates such a provision is guilty of a category B felony. (NRS 202.360) **Section 13** of this bill revises the list of persons so prohibited to include a person who has been convicted of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or the same or substantially similar conduct in another jurisdiction, committed against or upon certain persons, instead of a person who has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33).

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

Section 1. NRS 173.115 is hereby amended to read as follows:

173.115 1. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or gross misdemeanors or both, are:

- (a) Based on the same act or transaction; or
- (b) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

2. Except as otherwise provided in subsection 3 ~~1-a~~:

(a) A misdemeanor which was committed within the boundaries of a city and which would otherwise be within the jurisdiction of the municipal court must be charged in the same criminal complaint as a felony or gross misdemeanor or both if the misdemeanor is based on the same act or transaction as the felony or gross misdemeanor. A charge of a misdemeanor which meets the requirements of this subsection and which is erroneously included in a criminal complaint that is filed in the municipal court shall be deemed to be void ab initio and must be stricken.

(b) A battery which constitutes domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 must be charged in the same indictment or information in district court as a felony or gross misdemeanor or both if the battery is based on the same act or transaction as the felony or gross misdemeanor.

3. The provisions of subsection 2 do not apply:

(a) To a misdemeanor based solely upon an alleged violation of a municipal ordinance.

(b) If an indictment is brought or an information is filed in the district court for a felony or gross misdemeanor or both after the convening of a grand jury.

Sec. 2. NRS 175.011 is hereby amended to read as follows:

175.011 1. ~~In a district court, cases~~ **Cases** required to be tried by jury must be so tried unless the defendant waives a jury trial in writing with the approval of the court and the consent of the ~~State~~ **prosecuting attorney**. A defendant who pleads not guilty to the charge of a capital offense must be tried by jury.

2. ~~Not~~ **Except as otherwise provided in subsection 1**, 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. 3. NRS 175.021 is hereby amended to read as follows:

175.021 1. Trial juries for criminal actions are formed in the same manner as trial juries in civil actions.

2. ~~Except as provided in subsection 3, juries~~ **Juries** must consist of 12 jurors, but at any time before ~~verdict~~ **jury selection**, the parties may stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than six.

~~3. Juries must consist of six jurors for the trial of a criminal action in a Justice Court.~~

Sec. 4. 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}~~ **prosecuting attorney** and the defendant shall exercise their challenges alternately, in that order. Any challenge not exercised in its proper order is waived.

Sec. 5. NRS 175.141 is hereby amended to read as follows:

175.141 The jury having been impaneled and sworn, the trial shall proceed in the following order:

1. If the indictment or information be for a felony, the clerk must read it and state the plea of the defendant to the jury. In all other cases this formality may be dispensed with.

2. The ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open the cause. The defendant or the defendant's counsel may then either make the defendant's opening statement or reserve it to be made immediately prior to the presentation of evidence in the defendant's behalf.

3. The ~~{State}~~ **prosecuting attorney** must then offer its evidence in support of the charge, and the defendant may then offer evidence in his or her defense.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reasons, in furtherance of justice, permits them to offer evidence upon their original cause.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open and must conclude the argument.

Sec. 6. NRS 175.421 is hereby amended to read as follows:

175.421 A room ~~{shall}~~ **must** be provided by the sheriff of each county, **chief of police of each city or chief marshal, as applicable**, for the use of the jury upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery, unless such necessities have been already furnished by the county ~~{-}~~ **or city**. The court may order the sheriff, **chief of police or chief marshal** to do so, and the expenses incurred by the sheriff, **chief of police or chief marshal** in carrying the order into effect, when certified by the court, ~~{shall be}~~ **are** a county **or city** charge.

Sec. 7. Chapter 5 of NRS is hereby amended by adding thereto a new section to read as follows:

If a municipal court has been designated as a court of record pursuant to NRS 5.010, any proceeding before a jury in the municipal court may be recorded by using sound recording equipment.

Sec. 8. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

- (a) For the violation of any ordinance of their respective cities.
- (b) To prevent or abate a nuisance within the limits of their respective cities.

2. Except as otherwise provided in subsection 2 of NRS 173.115, the municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or, if the municipal court has not established a program pursuant to NRS 176A.280, to a program established pursuant to that section.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

5. *The municipal courts may hold a jury trial for any matter:*

(a) *Within the jurisdiction of the municipal court; and*

(b) *Required by the United States Constitution, the Nevada Constitution or statute.*

Sec. 9. NRS 6.045 is hereby amended to read as follows:

6.045 1. ~~{The district}~~ A court may by rule of court designate the clerk of the court, one of the clerk's deputies or another person as a jury commissioner and may assign to the jury commissioner such administrative duties in connection with trial juries and jurors as the court finds desirable for efficient administration.

2. If a jury commissioner is so selected, the jury commissioner shall from time to time estimate the number of trial jurors which will be required for attendance on the ~~district~~ **designated** court and shall select that number from the qualified electors of ~~the~~ :

(a) *The county ; or*

(b) *The city whose population is 220,000 or more, for a municipal court,*

↪ not exempt by law from jury duty, whether registered as voters or not. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists are established by the jury commissioner.

3. The jury commissioner shall, for the purpose of selecting trial jurors, compile and maintain a list of qualified electors from information provided by:

(a) A list of persons who are registered to vote in the county;

(b) The Department of Motor Vehicles pursuant to NRS 482.171 and 483.225;

(c) The Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 612.265; and

(d) A public utility pursuant to NRS 704.206.

4. In compiling and maintaining the list of qualified electors, the jury commissioner shall avoid duplication of names.

5. The jury commissioner shall:

(a) Keep a record of the name, occupation, address and race of each trial juror selected pursuant to subsection 2;

(b) Keep a record of the name, occupation, address and race of each trial juror who appears for jury service; and

(c) Prepare and submit a report to the Court Administrator which must:

(1) Include statistics from the records required to be maintained by the jury commissioner pursuant to this subsection, including, without limitation, the name, occupation, address and race of each trial juror who is selected and of each trial juror who appears for jury service;

(2) Be submitted at least once a year; and

(3) Be submitted in the time and manner prescribed by the Court Administrator.

6. The jury commissioner shall not select the name of any person whose name was selected the previous year, and who actually served on the jury by attending in court in response to the venire from day to day until excused from further attendance by order of the court, unless there are not enough other suitable jurors in the county **or city** to do the required jury duty.

7. ***A court may contract with another court for the purpose of procuring any administrative duties performed by a jury commissioner pursuant to this chapter.***

Sec. 10. NRS 6.090 is hereby amended to read as follows:

6.090 1. Whenever trial jurors are selected by a jury commissioner, the ~~district~~ judge may direct the jury commissioner to summon and assign to that court the number of qualified jurors the jury commissioner determines to be necessary for the formation of the petit jury. The jurors may be selected by

computer whenever procedures to assure random selection from computerized lists have been established by the jury commissioner.

2. Every person named in the venire must be served by the sheriff, **chief of police or chief marshal, as applicable**, personally or by the sheriff, **chief of police, ~~for the~~ chief marshal** or jury commissioner by mailing a summons to the person, commanding the person to attend as a juror at a time and place designated therein. Mileage is allowed only for personal service. The postage must be paid by the sheriff, **chief of police, ~~for the~~ chief marshal** or jury commissioner, as the case may be, and allowed him or her as other claims against the county ~~or city~~ **or city**. The sheriff, **chief of police or chief marshal** shall make return of the venire at least the day before the day named for their appearance, after which the venire is subject to inspection by any officer or attorney of the court.

Sec. 11. NRS 6.150 is hereby amended to read as follows:

6.150 1. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court, **or a trial juror in the municipal court**, is entitled to a fee of \$40 for each day after the second day of jury selection that the person is in attendance in response to the venire or summons, including Sundays and holidays.

2. Each grand juror and trial juror in the district court or justice court, **or trial juror in the municipal court**, actually sworn and serving is entitled to a fee of \$40 a day as compensation for each day of service.

3. In addition to the fees specified in subsections 1 and 2, a board of county commissioners **or governing body of a city** may provide that, for each day of such attendance or service, each person is entitled to be paid the per diem allowance and travel expenses provided for state officers and employees generally.

4. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court, **or a trial juror in the municipal court**, and each grand juror and trial juror in the district court or justice court, **or trial juror in the municipal court**, is entitled to receive 36.5 cents a mile for each mile necessarily and actually traveled if the home of the person summoned or serving as a juror is 30 miles or more from the place of trial.

5. If the home of a person summoned or serving as such a juror is 65 miles or more from the place of trial and the selection, inquiry or trial lasts more than 1 day, the person is entitled to receive an allowance for lodging at the rate established for state employees, in addition to his or her daily compensation for attendance or service, for each day on which the person does not return to his or her home.

6. In civil cases, any fee, per diem allowance, travel expense or other compensation due each juror engaged in the trial of the cause must be paid each day in advance to the clerk of the court, or the justice of the peace, by the party who has demanded the jury. If the party paying this money is the prevailing party, the money is recoverable as costs from the losing party. If the jury from any cause is discharged in a civil action without finding a verdict

and the party who demands the jury subsequently obtains judgment, the money so paid is recoverable as costs from the losing party.

7. The money paid by the clerk of the court to jurors for their services in a civil action or proceeding, which the clerk of the court has received from the party demanding the jury, must be deducted from the total amount due them for attendance as such jurors, and any balance is a charge against the county.

Sec. 11.3. NRS 66.020 is hereby amended to read as follows:

66.020 1. The court may, at any time before the trial, on motion, change the place of trial in the following cases:

(a) When it appears to the satisfaction of the justice before whom the action is pending, by affidavit of either party, that the justice is a material witness for either party.

(b) When either party makes and files an affidavit that the party believes that he or she cannot have a fair and impartial trial before the justice by reason of the interest, prejudice or bias of the justice.

(c) When a jury has been demanded, and either party makes and files an affidavit that he or she cannot have a fair and impartial trial on account of the bias or prejudice against him or her of the citizens of ~~the~~

~~—(1) The city, precinct or township, if the jurors are to be summoned pursuant to subsection 1 of NRS 67.010; or~~

~~—(2) The county, if the jurors are to be summoned pursuant to subsection 2 of NRS 67.010.~~

(d) When from any cause the justice is disqualified from acting.

(e) When the justice is sick or unable to act.

2. In lieu of changing the place of trial, the justice before whom the action is pending may for any of the cases mentioned in subsection 1 call another justice of the county to conduct the trial.

Sec. 11.7. NRS 67.010 is hereby amended to read as follows:

67.010 1. The jury must be summoned upon an order of the justice from ~~the~~ **of the county**, whether or not registered as voters, ~~for the city, precinct or township,~~ and not from the bystanders.

2. ~~In a county whose population is 700,000 or more, the~~ **The** justice may summon to the court ~~from the qualified electors of the county, whether or not registered as voters, and not from the bystanders,~~ the number of qualified jurors which the justice determines is necessary for the formation of a jury.

Sec. 12. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 12 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 20 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must not be less than 12 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(c) For the third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

2. Unless a greater penalty is provided pursuant to subsection 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

(a) A felony that constitutes domestic violence pursuant to NRS 33.018;

(b) A battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed with the use of a deadly weapon as described in NRS 200.481; or

(c) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a) or (b),

↪ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000, but not more than \$5,000.

4. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed against a victim who was pregnant at the

time of the battery and the person knew or should have known that the victim was pregnant:

(a) For the first offense, is guilty of a gross misdemeanor.

(b) For the second or any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

5. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery causes substantial bodily harm, is guilty of a category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

6. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

➡ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

7. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

➡ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a), (b) or (c) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

8. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for an alcohol or other substance use disorder that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

9. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

10. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018 ~~1-a~~

~~—(a) That~~ ***that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360, the person is entitled to a trial by jury pursuant to subsection 1 of NRS 175.011*** ~~1-~~

~~—(b) A prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, ~~paragraph, a~~ ***regardless of whether the person was previously prohibited from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360.***~~

11. A court:

(a) Except as otherwise provided in paragraph (b), shall not grant probation to or suspend the sentence of ~~such~~ a person ~~1- A court may~~ ***described in subsection 10.***

(b) May grant probation to or suspend the sentence of ~~such~~ a person ~~1-~~

~~—(a) (1)~~ ***described in subsection 10:***

(1) As set forth in NRS 4.373 and 5.055; or

~~1-(b)~~ (2) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

~~1-1-~~ 12. In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

~~[12.]~~ **13.** A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~[13.]~~ **14.** As used in this section:

(a) “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

(b) “Battery” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) “Offense” includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 13. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted ~~in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);~~ **of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or a law of any other jurisdiction that prohibits the same or substantially similar conduct, committed against or upon:**

(1) The spouse or former spouse of the person;

(2) Any other person with whom the person has had or is having a dating relationship, as defined in NRS 33.018;

(3) Any other person with whom the person has a child in common;

(4) The parent or legal guardian of the person; or

(5) The child of the person or a child for whom the person is the legal guardian.

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection 7 of NRS 200.575;

(d) Except as otherwise provided in NRS 33.031, is currently subject to:

(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or

(2) An equivalent order in any other state;

(e) Is a fugitive from justice;

(f) Is an unlawful user of, or addicted to, any controlled substance; or

(g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➡ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;

(b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;

(c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;

(d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or

(e) Is illegally or unlawfully in the United States.

➡ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) “Controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) “Firearm” includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 14. NRS 266.550 is hereby amended to read as follows:

266.550 1. The municipal court shall have such powers and jurisdiction in the city as are now provided by law for justice courts, wherein any person or persons are charged with the breach or violation of the provisions of any ordinance of such city or of this chapter, of a police or municipal nature. ~~The~~ ***Except as otherwise provided in subsection 5 of NRS 5.050, the*** trial and proceedings in such cases must be summary and without a jury.

2. The powers of the municipal court include the power to charge and collect those fees authorized pursuant to NRS 5.073.

Sec. 15. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

The municipal court of an incorporated city may conduct a jury trial pursuant to subsection 5 of NRS 5.050.

Sec. 16. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, 607.217 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.037 and administered pursuant to NRS 223.820, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

↪ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and

contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. Upon the request of any ~~judicial district~~ judge or jury commissioner, ~~of the judicial district in which the county is located,~~ the Administrator shall, in accordance with other agreements entered into with other ~~judicial district~~ courts and in compliance with 20 C.F.R. Part 603, and any other applicable federal laws and regulations governing the Division, furnish the name, address and date of birth of persons who receive benefits in any county ~~or city~~ *or city* for use in the selection of trial jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list of such persons shall reimburse the Division for the reasonable cost of providing the requested information.

11. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

12. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

13. The Administrator, any employee or other person acting on behalf of the Administrator, or any employee or other person acting on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has

obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

- (a) Uses or permits the use of the list for any political purpose;
- (b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or
- (c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 17. The amendatory provisions of this act apply to any offense:

- 1. Committed on or after January 1, 2022; or
- 2. Committed before January 1, 2022, if the underlying judicial proceedings are pending or otherwise unresolved on January 1, 2022.

Sec. 18. This act becomes effective on January 1, 2022.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 655 to Assembly Bill No. 42.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 714.

AN ACT relating to crimes; requiring certain batteries which constitute domestic violence to be charged with certain felonies and gross misdemeanors; expanding the courts that are required to conduct a jury trial under certain circumstances; revising various provisions relating to jury trials; authorizing the use of sound recording equipment under certain circumstances; making various changes regarding the jurisdiction of municipal courts; revising provisions governing the selection of jurors; establishing a right to a jury trial under certain circumstances; prohibiting a person convicted of a battery which constitutes domestic violence or the same or similar conduct in another jurisdiction from owning or having in his or her possession or under his or her custody or control any firearm; revising the circumstances under which a prosecuting attorney is authorized to dismiss a charge of battery which constitutes domestic violence; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 1983, the Nevada Supreme Court held that NRS 175.011 does not establish a statutory right to a trial by jury upon demand in every case because: (1) the statute does not expressly state the Legislature's intent to grant a substantive right to trial by jury, but rather it is only intended to establish procedural requirements; and (2) there is no constitutional right to a jury trial for "petty" offenses. (*State v. Smith*, 99 Nev. 806, 808-810 (1983)). The United

States Supreme Court later ruled that an offense with a maximum period of incarceration of 6 months or less is presumptively petty and to overcome that presumption a defendant must prove that any additional statutory penalties, together with the maximum period of incarceration, are so severe that they clearly reflect that the offense is serious and thus triggers a right to a jury trial pursuant to the Sixth Amendment to the United States Constitution and Section 3 of Article 1 of the Nevada Constitution. (*Blanton v. City of N. Las Vegas*, 489 U.S. 538, 543 (1989)) In 2019, the Nevada Supreme Court held that a battery which constitutes domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 is a serious offense, if it imposes a limitation on the possession of a firearm, thereby triggering a constitutional right to a jury trial. The Court reasoned that Legislature elevated the seriousness of the offense when it amended NRS 202.360 in 2015, thereby limiting a person's constitutional right to bear arms by prohibiting the possession or control of any firearm by a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). (*Andersen v. Eighth Jud. Dist. Ct.*, 135 Nev. 321, 323-324 (2019))

Under existing law, a person convicted of a battery which constitutes domestic violence for the first offense within 7 years is guilty of a misdemeanor and shall be punished by: (1) imprisonment in a city or county jail or detention center for not less than 2 days, but not more than 6 months; (2) community service; and (3) a fine of not less than \$200 but not more than \$1,000. (NRS 200.485) **Section 12** of this bill establishes a statutory right to a jury trial for a person charged with a battery which constitutes domestic violence that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm. **Section 12** also requires the provision of a jury trial regardless of whether the person has previously been prohibited from owning, possessing or having under his or her control or custody any firearm.

Existing law requires certain misdemeanors which would otherwise be under the jurisdiction of a municipal court to be charged in the same criminal complaint with related felonies and gross misdemeanors in the district court. (NRS 173.115) **Section 1** of this bill additionally requires a battery which constitutes domestic violence that is punishable as a misdemeanor to be charged in the same indictment or information in district court if the battery arises out of the same act as a felony or gross misdemeanor.

Existing law requires that certain cases in a district court must be tried by a jury unless the defendant waives such a trial in writing with the approval of the court and the consent of the State. (NRS 175.011) **Section 2** of this bill: (1) expands the courts in which such cases must be tried by a jury, which would necessarily include a justice court and municipal court for certain cases required to be so tried by the United States Constitution, the Nevada Constitution or statute; and (2) accordingly revises the person to whom consent must be given.

Existing law requires the trial of a criminal action conducted in: (1) district court to be tried by a jury of 12 jurors unless before verdict the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6; and (2) justice court to be tried by a jury of 6 jurors. (NRS 175.021) **Section 3** of this bill requires that all criminal actions, whether in district court, justice court or municipal court, must be tried by a jury of 12 jurors unless before jury selection the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6.

Existing law directs, in relation to the procedures for conducting jury trials, the State, as prosecutor, to perform certain duties. (NRS 175.051, 175.141) **Sections 4 and 5** of this bill revise the persons required to perform such duties to include any prosecuting attorney, which may include the city attorney for jury trials conducted in a municipal court. Existing law also directs, in relation to the procedures for conducting jury trials, the sheriff of each county to perform certain duties. (NRS 6.090, 175.421) **Sections 6 and 10** of this bill revise the persons required to perform such duties to include the chief of police or chief marshal, as applicable.

Existing law requires proceedings in justice court to be recorded by the use of sound recording equipment under certain circumstances. (NRS 4.390) Existing law also specifies that certain courts are courts of record, including the municipal courts in any case in which a jury trial is required or if designated as courts of record. (NRS 1.020) **Section 7** of this bill authorizes a municipal court to record any proceeding before a jury by the use of sound recording equipment, if the municipal court has been designated as a court of record.

Existing law sets forth the powers and jurisdiction of municipal courts and limits such municipal courts in cities incorporated by general law to proceedings and trials that are summary and without a jury. (NRS 5.050, 266.550) **Section 8** of this bill allows municipal courts to conduct jury trials: (1) for a matter within the jurisdiction of the court; and (2) where such a trial is required pursuant to the United States Constitution, the Nevada Constitution or statute. **Section 14** of this bill allows for jury trials under such circumstances in municipal courts within cities incorporated by general law. **Section 15** of this bill similarly allows for jury trials under such circumstances in municipal courts within all incorporated cities, including those cities created pursuant to the enactment of a city charter.

Existing law authorizes a district court to assign a jury commissioner to select trial jurors. Existing law also requires a jury commissioner so assigned to select trial jurors from qualified electors of the county not exempt from jury duty, whether registered as voters or not. (NRS 6.045) **Section 9** of this bill: (1) extends the courts authorized to assign a jury commissioner to include justice courts and municipal courts, which are located in a city whose population is 220,000 or more; and (2) allows a court to contract with another court for the services provided by a jury commissioner. **Section 16** of this bill makes a conforming change related to the selection of jurors in a city.

Existing law sets forth certain fees for attendance and travel allowances for jurors summoned or serving on a jury in a district court or justice court. (NRS 6.150) **Section 11** of this bill extends such fees and allowances for jurors summoned to or serving on a jury in a municipal court.

Existing law provides that in a county whose population is 700,000 or more (currently Clark County), a justice of the peace must summon a sufficient number of jurors to form a jury from the qualified electors of the county. In all other counties, a justice of the peace may summon jurors from the city, precinct or township. (NRS 67.010) **Section 11.7** of this bill provides that in all counties, jurors must be summoned from the qualified electors of the county. **Section 11.3** of this bill makes a conforming change to reflect the change made in **section 11.7**.

If a person is charged with committing a battery which constitutes domestic violence, existing law prohibits a prosecuting attorney from dismissing the charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge, or for any other reason, unless the charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.485) **Section 12** removes the prohibition, thereby authorizing a prosecuting attorney to dismiss a charge of battery which constitutes domestic violence under such circumstances.

Existing law prohibits certain persons from owning or having in their possession or under their custody or control any firearm, including a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). A person who violates such a provision is guilty of a category B felony. (NRS 202.360) **Section 13** of this bill revises the list of persons so prohibited to include a person who has been convicted of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or the same or substantially similar conduct in another jurisdiction, committed against or upon certain persons, instead of a person who has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33).

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

Section 1. NRS 173.115 is hereby amended to read as follows:

173.115 1. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or gross misdemeanors or both, are:

- (a) Based on the same act or transaction; or
- (b) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

2. Except as otherwise provided in subsection 3 ~~1-a~~ :

(a) A misdemeanor which was committed within the boundaries of a city and which would otherwise be within the jurisdiction of the municipal court

must be charged in the same criminal complaint as a felony or gross misdemeanor or both if

the misdemeanor is based on the same act or transaction as the felony or gross misdemeanor. A charge of a misdemeanor which meets the requirements of this subsection and which is erroneously included in a criminal complaint that is filed in the municipal court shall be deemed to be void ab initio and must be stricken.

(b) A battery which constitutes domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 must be charged in the same indictment or information in district court as a felony or gross misdemeanor or both if the battery is based on the same act or transaction as the felony or gross misdemeanor.

3. The provisions of subsection 2 do not apply:

(a) To a misdemeanor based solely upon an alleged violation of a municipal ordinance.

(b) If an indictment is brought or an information is filed in the district court for a felony or gross misdemeanor or both after the convening of a grand jury.

Sec. 2. NRS 175.011 is hereby amended to read as follows:

175.011 1. ~~In a district court, cases~~ **Cases** required to be tried by jury must be so tried unless the defendant waives a jury trial in writing with the approval of the court and the consent of the ~~State~~ **prosecuting attorney**. A defendant who pleads not guilty to the charge of a capital offense must be tried by jury.

2. ~~In~~ **Except as otherwise provided in subsection 1,** 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. 3. NRS 175.021 is hereby amended to read as follows:

175.021 1. Trial juries for criminal actions are formed in the same manner as trial juries in civil actions.

2. ~~Except as provided in subsection 3, juries~~ **Juries** must consist of 12 jurors, but at any time before ~~verdict~~ **jury selection**, the parties may stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than six.

~~3. Juries must consist of six jurors for the trial of a criminal action in a Justice Court.~~

Sec. 4. 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}~~ **prosecuting attorney** and the defendant shall exercise their challenges alternately, in that order. Any challenge not exercised in its proper order is waived.

Sec. 5. NRS 175.141 is hereby amended to read as follows:

175.141 The jury having been impaneled and sworn, the trial shall proceed in the following order:

1. If the indictment or information be for a felony, the clerk must read it and state the plea of the defendant to the jury. In all other cases this formality may be dispensed with.

2. The ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open the cause. The defendant or the defendant's counsel may then either make the defendant's opening statement or reserve it to be made immediately prior to the presentation of evidence in the defendant's behalf.

3. The ~~{State}~~ **prosecuting attorney** must then offer its evidence in support of the charge, and the defendant may then offer evidence in his or her defense.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reasons, in furtherance of justice, permits them to offer evidence upon their original cause.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open and must conclude the argument.

Sec. 6. NRS 175.421 is hereby amended to read as follows:

175.421 A room ~~{shall}~~ **must** be provided by the sheriff of each county , **chief of police of each city or chief marshal, as applicable**, for the use of the jury upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery, unless such necessities have been already furnished by the county ~~{}~~ **or city**. The court may order the sheriff , **chief of police or chief marshal** to do so, and the expenses incurred by the sheriff , **chief of police or chief marshal** in carrying the order into effect, when certified by the court, ~~{shall be}~~ **are** a county **or city** charge.

Sec. 7. Chapter 5 of NRS is hereby amended by adding thereto a new section to read as follows:

If a municipal court has been designated as a court of record pursuant to NRS 5.010, any proceeding before a jury in the municipal court may be recorded by using sound recording equipment.

Sec. 8. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. Except as otherwise provided in subsection 2 of NRS 173.115, the municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the

district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or, if the municipal court has not established a program pursuant to NRS 176A.280, to a program established pursuant to that section.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

5. *The municipal courts may hold a jury trial for any matter:*

(a) *Within the jurisdiction of the municipal court; and*

(b) *Required by the United States Constitution, the Nevada Constitution or statute.*

Sec. 9. NRS 6.045 is hereby amended to read as follows:

6.045 1. ~~[The district]~~ A court may by rule of court designate the clerk of the court, one of the clerk's deputies or another person as a jury commissioner and may assign to the jury commissioner such administrative duties in connection with trial juries and jurors as the court finds desirable for efficient administration.

2. If a jury commissioner is so selected, the jury commissioner shall from time to time estimate the number of trial jurors which will be required for attendance on the ~~[district]~~ **designated** court and shall select that number from the qualified electors of ~~the~~ :

(a) *The county ; or*

(b) *The city whose population is 220,000 or more, for a municipal court,*

↪ not exempt by law from jury duty, whether registered as voters or not. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists are established by the jury commissioner.

3. The jury commissioner shall, for the purpose of selecting trial jurors, compile and maintain a list of qualified electors from information provided by:

- (a) A list of persons who are registered to vote in the county;
- (b) The Department of Motor Vehicles pursuant to NRS 482.171 and 483.225;
- (c) The Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 612.265; and
- (d) A public utility pursuant to NRS 704.206.

4. In compiling and maintaining the list of qualified electors, the jury commissioner shall avoid duplication of names.

5. The jury commissioner shall:

- (a) Keep a record of the name, occupation, address and race of each trial juror selected pursuant to subsection 2;
- (b) Keep a record of the name, occupation, address and race of each trial juror who appears for jury service; and
- (c) Prepare and submit a report to the Court Administrator which must:
 - (1) Include statistics from the records required to be maintained by the jury commissioner pursuant to this subsection, including, without limitation, the name, occupation, address and race of each trial juror who is selected and of each trial juror who appears for jury service;
 - (2) Be submitted at least once a year; and
 - (3) Be submitted in the time and manner prescribed by the Court Administrator.

6. The jury commissioner shall not select the name of any person whose name was selected the previous year, and who actually served on the jury by attending in court in response to the venire from day to day until excused from further attendance by order of the court, unless there are not enough other suitable jurors in the county **or city** to do the required jury duty.

7. ***A court may contract with another court for the purpose of procuring any administrative duties performed by a jury commissioner pursuant to this chapter.***

Sec. 10. NRS 6.090 is hereby amended to read as follows:

6.090 1. Whenever trial jurors are selected by a jury commissioner, the ~~district~~ judge may direct the jury commissioner to summon and assign to that court the number of qualified jurors the jury commissioner determines to be necessary for the formation of the petit jury. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists have been established by the jury commissioner.

2. Every person named in the venire must be served by the sheriff, ***chief of police or chief marshal, as applicable***, personally or by the sheriff ~~for the~~ ***, chief of police, chief marshal or*** jury commissioner by mailing a summons to the person, commanding the person to attend as a juror at a time and place

designated therein. Mileage is allowed only for personal service. The postage must be paid by the sheriff ~~for the~~ , **chief of police, chief marshal or** jury commissioner, as the case may be, and allowed him or her as other claims against the county ~~or city~~. The sheriff , **chief of police or chief marshal** shall make return of the venire at least the day before the day named for their appearance, after which the venire is subject to inspection by any officer or attorney of the court.

Sec. 11. NRS 6.150 is hereby amended to read as follows:

6.150 1. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court , **or a trial juror in the municipal court**, is entitled to a fee of \$40 for each day after the second day of jury selection that the person is in attendance in response to the venire or summons, including Sundays and holidays.

2. Each grand juror and trial juror in the district court or justice court , **or trial juror in the municipal court**, actually sworn and serving is entitled to a fee of \$40 a day as compensation for each day of service.

3. In addition to the fees specified in subsections 1 and 2, a board of county commissioners **or governing body of a city** may provide that, for each day of such attendance or service, each person is entitled to be paid the per diem allowance and travel expenses provided for state officers and employees generally.

4. Each person summoned to attend as a grand juror or a trial juror in the district court or justice court , **or a trial juror in the municipal court**, and each grand juror and trial juror in the district court or justice court , **or trial juror in the municipal court**, is entitled to receive 36.5 cents a mile for each mile necessarily and actually traveled if the home of the person summoned or serving as a juror is 30 miles or more from the place of trial.

5. If the home of a person summoned or serving as such a juror is 65 miles or more from the place of trial and the selection, inquiry or trial lasts more than 1 day, the person is entitled to receive an allowance for lodging at the rate established for state employees, in addition to his or her daily compensation for attendance or service, for each day on which the person does not return to his or her home.

6. In civil cases, any fee, per diem allowance, travel expense or other compensation due each juror engaged in the trial of the cause must be paid each day in advance to the clerk of the court, or the justice of the peace, by the party who has demanded the jury. If the party paying this money is the prevailing party, the money is recoverable as costs from the losing party. If the jury from any cause is discharged in a civil action without finding a verdict and the party who demands the jury subsequently obtains judgment, the money so paid is recoverable as costs from the losing party.

7. The money paid by the clerk of the court to jurors for their services in a civil action or proceeding, which the clerk of the court has received from the party demanding the jury, must be deducted from the total amount due them for attendance as such jurors, and any balance is a charge against the county.

Sec. 11.3. NRS 66.020 is hereby amended to read as follows:

66.020 1. The court may, at any time before the trial, on motion, change the place of trial in the following cases:

(a) When it appears to the satisfaction of the justice before whom the action is pending, by affidavit of either party, that the justice is a material witness for either party.

(b) When either party makes and files an affidavit that the party believes that he or she cannot have a fair and impartial trial before the justice by reason of the interest, prejudice or bias of the justice.

(c) When a jury has been demanded, and either party makes and files an affidavit that he or she cannot have a fair and impartial trial on account of the bias or prejudice against him or her of the citizens of ~~the~~:

~~— (1) The city, precinct or township, if the jurors are to be summoned pursuant to subsection 1 of NRS 67.010; or~~

~~— (2) The *the* county . ~~the~~ if the jurors are to be summoned pursuant to subsection 2 of NRS 67.010.~~

(d) When from any cause the justice is disqualified from acting.

(e) When the justice is sick or unable to act.

2. In lieu of changing the place of trial, the justice before whom the action is pending may for any of the cases mentioned in subsection 1 call another justice of the county to conduct the trial.

Sec. 11.7. NRS 67.010 is hereby amended to read as follows:

67.010 1. The jury must be summoned upon an order of the justice from ~~the~~, except as otherwise provided in subsection 2, ~~the~~ the qualified electors ~~of~~ *of the county*, whether or not registered as voters, ~~of the city, precinct or township,~~ and not from the bystanders.

2. ~~In a county whose population is 700,000 or more, the~~ *The* justice may summon to the court ~~from the qualified electors of the county, whether or not registered as voters, and not from the bystanders,~~ the number of qualified jurors which the justice determines is necessary for the formation of a jury.

Sec. 12. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➡ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 12

consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 20 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➡ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must not be less than 12 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(c) For the third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

2. Unless a greater penalty is provided pursuant to subsection 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

(a) A felony that constitutes domestic violence pursuant to NRS 33.018;

(b) A battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed with the use of a deadly weapon as described in NRS 200.481; or

(c) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a) or (b),

➡ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000, but not more than \$5,000.

4. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed against a victim who was pregnant at the time of the battery and the person knew or should have known that the victim was pregnant:

(a) For the first offense, is guilty of a gross misdemeanor.

(b) For the second or any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and

may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

5. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery causes substantial bodily harm, is guilty of a category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than \$1,000, but not more than \$5,000.

6. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

➡ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

7. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

➡ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a), (b) or (c) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

8. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for an alcohol or other substance use disorder that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

9. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

10. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018 ~~if a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a~~ **that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360, the person is entitled to a trial by jury pursuant to subsection 1 of NRS 175.011, regardless of whether the person was previously prohibited from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360.**

11. A court :

(a) *Except as otherwise provided in paragraph (b),* shall not grant probation to or suspend the sentence of ~~such~~ a person ~~if a court may~~ **described in subsection 10.**

(b) **May** grant probation to or suspend the sentence of ~~such~~ a person ~~if~~ **described in subsection 10:**

(1) As set forth in NRS 4.373 and 5.055; or

~~if~~ (2) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

~~if~~ 12. In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

~~if~~ 13. A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section

concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~13.1~~ **14.** As used in this section:

(a) “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

(b) “Battery” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) “Offense” includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 13. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted ~~in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);~~ ***of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or a law of any other jurisdiction that prohibits the same or substantially similar conduct, committed against or upon:***

(1) The spouse or former spouse of the person;

(2) Any other person with whom the person has had or is having a dating relationship, as defined in NRS 33.018;

(3) Any other person with whom the person has a child in common;

(4) The parent ~~for legal guardian~~ of the person; or

(5) The child of the person or a child for whom the person is the legal guardian.

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection 7 of NRS 200.575;

(d) Except as otherwise provided in NRS 33.031, is currently subject to:

(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the

adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or

- (2) An equivalent order in any other state;
- (e) Is a fugitive from justice;
- (f) Is an unlawful user of, or addicted to, any controlled substance; or
- (g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➔ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

- (a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;
- (b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;
- (c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;
- (d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or
- (e) Is illegally or unlawfully in the United States.

➔ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

- (a) “Controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6).
- (b) “Firearm” includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 14. NRS 266.550 is hereby amended to read as follows:

266.550 1. The municipal court shall have such powers and jurisdiction in the city as are now provided by law for justice courts, wherein any person or persons are charged with the breach or violation of the provisions of any ordinance of such city or of this chapter, of a police or municipal nature. ~~The~~ ***Except as otherwise provided in subsection 5 of NRS 5.050, the*** trial and proceedings in such cases must be summary and without a jury.

2. The powers of the municipal court include the power to charge and collect those fees authorized pursuant to NRS 5.073.

Sec. 15. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

The municipal court of an incorporated city may conduct a jury trial pursuant to subsection 5 of NRS 5.050.

Sec. 16. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, 607.217 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.037 and administered pursuant to NRS 223.820, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

➡ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in

the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. Upon the request of any ~~judicial district~~ judge or jury commissioner, ~~of the judicial district in which the county is located,~~ the Administrator shall, in accordance with other agreements entered into with other ~~judicial district~~ courts and in compliance with 20 C.F.R. Part 603, and any other applicable federal laws and regulations governing the Division, furnish the name, address and date of birth of persons who receive benefits in any county ~~or city~~ **or city** for use in the selection of trial jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list of such persons shall reimburse the Division for the reasonable cost of providing the requested information.

11. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

12. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

13. The Administrator, any employee or other person acting on behalf of the Administrator, or any employee or other person acting on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

- (a) Uses or permits the use of the list for any political purpose;
- (b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or

(c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 17. The amendatory provisions of this act apply to any offense:

1. Committed on or after January 1, 2022; or
2. Committed before January 1, 2022, if the underlying judicial proceedings are pending or otherwise unresolved on January 1, 2022.

Sec. 18. This act becomes effective on January 1, 2022.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 714 to Assembly Bill No. 42.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 104.

The following Senate amendment was read:

Amendment No. 656.

AN ACT relating to actions concerning persons; exempting certain records concerning a civil action for wrongful conviction from the requirement to be sealed; exempting the State from provisions governing offers of judgment in an action for wrongful conviction; exempting a judgment for wrongful conviction from interest on certain judgments; clarifying the period of time used to calculate the amount of a judgment for wrongful conviction; establishing certain limitations applicable to awards for certain items; limiting the amount of monetary compensation which may be awarded to a person who has previously obtained an award of monetary compensation or a settlement from this State or other governmental entity; requiring a person who previously received compensation for a wrongful conviction, and who subsequently obtains an award of monetary compensation or a settlement from this State for the wrongful conviction, to notify and reimburse the State for the amount previously obtained; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court to seal all records of a conviction upon entry of a certificate of innocence, if a person is successful in a wrongful conviction action. (NRS 41.910) **Section 1** of this bill exempts records of a conviction maintained by the parties concerning a civil action for wrongful conviction from this requirement. **Section 1** also specifies that such records maintained by the parties must remain confidential.

Under existing law, the State waives its immunity from liability in civil actions brought for a wrongful conviction and consents to have its liability

determined in accordance with the rules of law governing civil actions against natural persons and corporations. (NRS 41.920) Existing law authorizes a party in a civil action to serve an offer of judgment upon another party prior to trial and subjects the offeree to certain penalties if the offeree rejects the offer and fails to obtain a more favorable judgment at trial. (NRS 17.117) Existing law also provides that a judgment draws interest from the time of service of the summons and complaint until the judgment is satisfied. (NRS 17.130) **Section 2** of this bill exempts the State from the requirements of the provisions governing offers of judgment in civil actions brought for a wrongful conviction. **Section 2** also exempts a judgment for a wrongful conviction from provisions governing interest on judgments.

Existing law requires a court to award a person who has obtained a certificate of innocence in a wrongful conviction action a certain amount of monetary compensation for each year of imprisonment. (NRS 41.950) **Section 3** of this bill ~~establishes~~ **clarifies** that the period of time used to calculate an award of monetary compensation ~~begins on the date the person was wrongfully convicted and imprisoned and ends on the date the wrongful conviction was reversed or the person was released from prison, whichever is earlier.~~ **is each year the person was imprisoned for his or her wrongful conviction.** Existing law authorizes a court to award such a person payment for certain items, including, without limitation, payment for tuition, health care and counseling services. (NRS 41.950) **Section 3** prohibits a court from awarding payment for such items: (1) in an amount greater than \$100,000 per calendar year; and (2) for a length of time that exceeds the period of time the person was imprisoned or on parole. **Section 3** also establishes certain additional limitations applicable to such items.

Existing law limits an award of monetary compensation for a person who has obtained a certificate of innocence in an action for wrongful conviction and who has previously obtained an award or settlement from the State for the wrongful conviction to the amount provided in NRS 41.950, less the amount previously obtained. (NRS 41.960) **Section 4** of this bill expands the applicability of this limitation to awards and settlements for the wrongful conviction obtained from this State or any other governmental entity. Existing law requires a person who was successful in his or her action against the State for a wrongful conviction pursuant to NRS 41.900, and who subsequently obtains an award or settlement for the wrongful conviction that exceeds the amount previously obtained, to reimburse the State for the amount previously obtained. (NRS 41.960) **Section 4** additionally: (1) expands the application of this requirement to compensation received from the State whether through an award of damages or a settlement; (2) requires such a person to notify the State Board of Examiners of the subsequent award of damages or settlement not later than 4 months after the date of the subsequent award of damages or settlement; (3) requires such a person to reimburse the State not later than 6 months after the date of the subsequent award of damages or settlement; and (4) authorizes a court to order the termination of any future payment for certain

items, including, without limitation, payment for tuition, health care and counseling services, if such a person does not so notify the State Board of Examiners or reimburse the State. **Section 4** also exempts awards for certain items including, without limitation, payment for tuition, health care and counseling services from the calculation of the amount of an award or settlement for the purposes of limiting an award or requiring an award to be reimbursed.

Existing law requires a person who was successful in his or her action for a wrongful conviction to submit a claim to the State Board of Examiners. (NRS 41.900, 41.970) **Section 4.5** of this bill specifies that payment does not become effective without the prior approval of the State Board of Examiners.

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

Section 1. NRS 41.910 is hereby amended to read as follows:

41.910 1. If a court finds that a person is entitled to a judgment pursuant to NRS 41.900, the court shall enter a certificate of innocence finding that the person was innocent of the felony for which the person was wrongfully convicted.

2. If a court does not find that a person is entitled to a judgment pursuant to NRS 41.900, the action must be dismissed and the court shall not enter a certificate of innocence.

3. Upon an entry of a certificate of innocence pursuant to subsection 1, the court shall order sealed all records of the conviction, *except such records maintained by the parties concerning a civil action for wrongful conviction brought pursuant to NRS 41.900*, which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada and shall order all such records of the person returned to the file of the court where the underlying criminal action was commenced from, including, without limitation, the Federal Bureau of Investigation and all other agencies of criminal justice which maintain such records and which are reasonably known by either the person or the court to have possession of such records. Such records must be sealed regardless of whether the person has any prior criminal convictions in this State.

4. *The records maintained by the parties concerning a civil action for wrongful conviction pursuant to subsection 3 must remain confidential.*

Sec. 2. NRS 41.920 is hereby amended to read as follows:

41.920 1. The State of Nevada waives its immunity from liability in any action brought pursuant to NRS 41.900 and consents to have its liability determined in accordance with the same rules of law as are applied to civil actions against natural persons and corporations ~~§~~, *except that:*

(a) *The State shall be exempt from the requirements of NRS 17.117; and*
(b) *A person who has obtained a certificate of innocence pursuant to NRS 41.910 shall not be entitled to prejudgment or postjudgment interest.*

2. An action brought pursuant to NRS 41.900 is not subject to any requirement of an action brought pursuant to NRS 41.031, including, without limitation, the limitations on an award of damages described in NRS 41.035.

3. All provisions of existing law relating to the absolute or qualified immunity of any judicial officer, prosecutor or law enforcement officer, including all applicable provisions of federal and state law, apply to an action brought pursuant to NRS 41.900.

Sec. 3. NRS 41.950 is hereby amended to read as follows:

41.950 1. In an action brought pursuant to NRS 41.900 which results in the court entering a certificate of innocence pursuant to NRS 41.910, the court shall award the person:

(a) If the person was imprisoned for:

(1) One to 10 years, \$50,000 for each year ~~of imprisonment; from the date the person was imprisoned after~~ for his or her wrongful conviction ; until the date the wrongful conviction was reversed or the person was released from prison, whichever is earlier;

(2) Eleven to 20 years, \$75,000 for each year ~~of imprisonment; from the date the person was imprisoned after~~ for his or her wrongful conviction ; until the date the wrongful conviction was reversed or the person was released from prison, whichever is earlier; or

(3) Twenty-one years or more, \$100,000 for each year ~~of imprisonment; from the date the person was imprisoned after~~ for his or her wrongful conviction ; until the date the wrongful conviction was reversed or the person was released from prison, whichever is earlier; and

(b) Not less than \$25,000 for each year the person was on parole or not less than \$25,000 for each year the person was required to register as a sex offender, whichever period of time was greater.

2. In addition to any damages awarded pursuant to subsection 1, the court may award:

(a) Reasonable attorney's fees, not to exceed \$25,000, unless a greater amount is authorized by a court upon a finding of good cause shown.

(b) ~~Payment~~ **Subject to the limitations in subsection 6, payment** for the cost of:

(1) Tuition, books and fees for the person to ~~attend~~ **enroll in any course or academic program at** an institution operated by the Nevada System of Higher Education ~~that~~ **commenced not later than 3 years and completed not later than 10 years after the date the award of damages is issued pursuant to subsection 1.**

(2) Participation by the person in ~~a health care program of this State;~~ **Medicare or Medicaid, if the person is eligible for Medicare or Medicaid, or a qualified health plan offered on the health insurance exchange administered by the Silver State Health Insurance Exchange which has been designated by the Exchange as a Bronze or Silver plan, if the person is not eligible for Medicare or Medicaid. The court shall not award payment**

pursuant to this subparagraph for any period in which the person is enrolled in an employer-based health insurance plan.

(3) Programs for reentry into the community for the person ~~[-and]~~ *commenced not later than 3 years and completed not later than 5 years after the date the award of damages is issued pursuant to subsection 1.*

(4) Counseling services for the person ~~[-]~~ *commenced not later than 2 years after the date the award of damages is issued pursuant to subsection 1.*

(5) *Housing assistance in an amount not greater than \$15,000 per year.*

(6) *Programs for assistance for financial literacy for the person commenced not later than 2 years and completed not later than 3 years after the date the award of damages is issued pursuant to subsection 1.*

(c) Reimbursement for:

(1) Restitution ordered to be paid by the person in the criminal proceeding for which he or she was wrongfully convicted; and

(2) Medical care paid for by the person while he or she was imprisoned for his or her wrongful conviction. ~~[-and]~~

(d) Any other relief. ~~[-including, without limitation, housing assistance or assistance for financial literacy for the person.]~~

3. Any award of damages issued pursuant to subsection 1 must be rounded up to the nearest half year.

4. A court shall not award and a person shall not receive compensation for any period of imprisonment during which the person was concurrently serving a sentence for a conviction of another offense for which the person was lawfully convicted and imprisoned.

5. If counseling services are awarded to the person pursuant to subsection 2, the person may select a relative to receive counseling with the person. As used in this subsection, “relative” means a person who is related by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

6. *A court shall not award payment pursuant to paragraph (b) of subsection 2:*

(a) In an amount greater than \$100,000 in a calendar year.

(b) For a length of time that exceeds the period of time described in subsection 1 during which the person was imprisoned or on parole.

7. *As used in this section, “qualified health plan” has the meaning ascribed to it in NRS 695I.080.*

Sec. 4. NRS 41.960 is hereby amended to read as follows:

41.960 1. If a person in an action brought pursuant to NRS 41.900 has previously won a monetary award against this State *or against any other governmental entity* in a civil action related to his or her wrongful conviction, the person is only entitled to receive any amount described in NRS 41.950, less the award obtained in the previous civil action.

2. If a person in an action brought pursuant to NRS 41.900 has entered into a settlement agreement with this State *or with any other governmental entity* related to his or her wrongful conviction, the person is *only* entitled to receive

any amount described in NRS 41.950, less the amount of the settlement agreement.

3. A person who ~~was successful~~ **received compensation from this State** in his or her action brought pursuant to NRS 41.900, **whether through an award of damages or a settlement**, and who subsequently receives a civil settlement or award relating to his or her wrongful conviction ~~that exceeds the amount awarded pursuant to NRS 41.950~~ shall :

(a) **Not later than 4 months after the date of the subsequent civil settlement or award, notify the State Board of Examiners of the subsequent civil settlement or award; and**

(b) **Not later than 6 months after the date of the subsequent civil settlement or award, reimburse this State for ~~this or her award of damages issued pursuant to this act.~~ the compensation previously received, not to exceed the amount of the monetary compensation which the person receives in the subsequent civil settlement or award.**

4. **If a person who received compensation from this State in his or her action brought pursuant to NRS 41.900, whether through an award of damages or a settlement, and who subsequently receives a civil settlement or award relating to his or her wrongful conviction does not notify the State Board of Examiners or reimburse this State pursuant to subsection 3, a court may order the termination of any future payment awarded pursuant to subsection 2 of NRS 41.950.**

5. The calculation of an award of damages or a settlement amount pursuant to this section must not include **items listed in subsection 2 of NRS 41.950, including, without limitation,** attorney's fees and the costs for bringing the action.

6. **As used in this section, "governmental entity" has the meaning ascribed to it in NRS 363C.040.**

Sec. 4.5. NRS 41.970 is hereby amended to read as follows:

41.970 To recover damages or other monetary relief awarded by a court pursuant to NRS 41.950, less any adjustment pursuant to NRS 41.960, a person who was successful in his or her action brought pursuant to NRS 41.900 must submit a claim to the State Board of Examiners. The claim must be for payment of the damages or other monetary relief from the Reserve for Statutory Contingency Account, upon approval by the State Board of Examiners. **Payment does not become effective without the prior approval of the State Board of Examiners.**

Sec. 5. This act becomes effective on July 1, 2021.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 656 to Assembly Bill No. 104.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 115.

The following Senate amendment was read:

Amendment No. 589.

AN ACT relating to domestic relations; authorizing one or more adults to petition a court for the adoption of a child; authorizing a court to waive the hearing on a petition for the adoption of a child in certain circumstances; requiring that additional information must be included in a petition for the adoption of a child who currently resides in the home of the petitioners; authorizing a court to determine that more than two people have a parent and child relationship with a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions governing the adoption of children. (NRS 127.010-127.186) Existing law authorizes any adult or married couple to petition a court for the adoption of a child. (NRS 127.030) **Section 5.2** of this bill instead provides that one or more adults may petition a court for the adoption of a child and requires that each prospective adopting adult and consenting legal parent seeking to retain his or her parental rights must be joined as a joint petitioner. **Section 5.2** also authorizes a court to: (1) waive the hearing on a petition for the adoption of a child if the petitioner is related to the child within the third degree of consanguinity; and (2) determine that a child has a legal relationship with more than two petitioners. **Sections 5.1, 5.3-5.6 and 5.7-5.9** of this bill make conforming changes to reflect that a child may have a legal relationship with more than two parents.

Existing law requires that a petition for the adoption of a child who currently resides in the home of the petitioners must contain certain information. (NRS 127.110) **Section 5.65** of this bill requires the petition also to include a statement that there are no known signs that the child is currently experiencing victimization from human trafficking, exploitation or abuse.

Section 8 of this bill generally provides that, for the purposes of the Nevada Revised Statutes, if more than two persons have a parent and child relationship with a child pursuant to a prior court order, any reference to the parents of a child or a parent of a child must be interpreted to include any person whom a court has determined to be a parent of the child.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 126.021 is hereby amended to read as follows:

126.021 As used in this chapter, unless the context otherwise requires:

1. "Custodial parent" means the parent of a child born out of wedlock who has been awarded physical custody of the child or, if no award of physical custody has been made by a court, the parent with whom the child resides.

2. “Nonsupporting parent” means the parent of a child born out of wedlock who has failed to provide an equitable share of his or her child’s necessary maintenance, education and support.

3. “Parent and child relationship” means the legal relationship existing between a child and his or her natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations. It includes the mother and child relationship and the father and child relationship. ***This subsection does not preclude a determination by a court that a child has such a legal relationship with more than two persons.***

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. NRS 127.020 is hereby amended to read as follows:

127.020 1. Except as otherwise provided in subsection 2:

(a) A minor child may be adopted by ~~an adult person in the cases and~~ ***one or more adults*** subject to the rules prescribed in this chapter.

(b) A person adopting a child must be at least 10 years older than the person adopted, and the consent of the child, if over the age of 14 years, is necessary to its adoption.

2. A court may approve the adoption of a child without regard to the age of the child and the ages of the prospective adoptive parents if:

(a) The child is being adopted by a stepparent, sister, brother, aunt, uncle or first cousin and, if the prospective adoptive parent is married, also by the spouse of the prospective adoptive parent; and

(b) The court is satisfied that it is in the best interest of the child and in the interest of the public.

Sec. 5.2. NRS 127.030 is hereby amended to read as follows:

127.030 1. ~~Any adult person or any two persons married to each other~~ ***One or more adults*** may petition the district court of any county in this state for leave to adopt a child. ***Each prospective adopting adult and each consenting legal parent seeking to retain his or her parental rights must be joined as a petitioner, a joint petitioner.***

2. Except as otherwise provided in subsection 5, a married person not lawfully separated from his or her spouse may not adopt a child without the consent of his or her spouse, if such spouse is capable of giving such consent.

3. If a spouse consents to an adoption as described in subsection 2, such consent does not establish any parental rights or responsibilities on the part of the spouse unless he or she:

(a) Has, in a writing filed with the court, specifically consented to:

(1) Adopting the child; and

(2) Establishing parental rights and responsibilities; and

(b) Is named as an adoptive parent in the order or decree of adoption.

4. The court shall not name a spouse who consents to an adoption as described in subsection 2 as an adoptive parent in an order or decree of adoption unless:

(a) The spouse has filed a writing with the court as described in paragraph (a) of subsection 3; and

(b) The home of the spouse is suitable for the child as determined by an investigation conducted pursuant to NRS 127.120 or 127.2805.

5. The court may dispense with the requirement for the consent of a spouse who cannot be located after a diligent search or who is determined by the court to lack the capacity to consent. A spouse for whom the requirement was dispensed pursuant to this subsection must not be named as an adoptive parent in an order or decree of adoption.

6. *If a person who petitions for the adoption of a child pursuant to this section is related to the child within the third degree of consanguinity, the court may, in its discretion, waive the hearing on the petition.*

7. *The court may determine that a child has a legal relationship with more than two persons who petition for the adoption of the child pursuant to this section.*

Sec. 5.3. NRS 127.040 is hereby amended to read as follows:

127.040 1. Except as provided in NRS 127.090, written consent to the specific adoption proposed by the petition or for relinquishment to an agency authorized to accept relinquishments acknowledged by the person or persons consenting, is required from:

(a) ~~{Both parents if both are living;}~~ ***Each legal parent who is alive; and***

(b) ~~{One parent if the other is dead; or~~

~~—(e) The}~~ ***Any legal*** guardian of the person of ~~{a}~~ ***the*** child appointed by a court of competent jurisdiction.

2. Consent is not required of a parent who has been adjudged insane for 2 years if the court is satisfied by proof that such insanity is incurable.

Sec. 5.4. NRS 127.043 is hereby amended to read as follows:

127.043 1. Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the ~~{mother}~~ ***parent who gave birth to the child*** as provided by NRS 127.070.

2. The provisions of this section do not apply if one ***or more of the existing legal parents is a*** petitioner or the ~~{spouse of a}~~ petitioner is related to the child within the third degree of consanguinity.

Sec. 5.5. NRS 127.045 is hereby amended to read as follows:

127.045 1. Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the ~~{mother}~~ ***parent who gave birth to the child*** as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:

(a) Petition any court for the appointment of a guardian; or

(b) Be appointed the temporary guardian,

↪ of the person of the child to be adopted.

2. The provisions of subsection 1 do not apply ~~{to}~~ ***if one or more of the existing legal parents is a petitioner or if any*** ~~{person who is related}~~

petitioner or ~~whose~~ *his or her* spouse is related to the child within the third degree of consanguinity.

Sec. 5.6. NRS 127.070 is hereby amended to read as follows:

127.070 1. All releases for and consents to adoption executed in this state by the ~~mother~~ *parent who gave birth to a child* before the birth of ~~a~~ *the* child or within 72 hours after the birth of ~~a~~ *the* child are invalid.

2. A release for or consent to adoption may be executed by ~~the father~~ *a parent* before the birth of ~~the~~ *a* child if the ~~father~~ *parent* is not married to the ~~mother~~ *parent who gave birth to the child*. A release executed ~~by the father~~ *under this subsection* becomes invalid if:

(a) The ~~father of the child marries the mother~~ *parents* of the child *marry each other* before the child is born;

(b) The ~~mother of~~ *parent who gave birth to* the child does not execute a release for or consent to adoption of the child within 6 months after the birth of the child; or

(c) No petition for adoption of the child has been filed within 2 years after the birth of the child.

Sec. 5.65. NRS 127.110 is hereby amended to read as follows:

127.110 1. A petition for adoption of a child who currently resides in the home of the petitioners may be filed at any time after the child has lived in the home for 30 days.

2. The petition for adoption must state, in substance, the following:

(a) The full name and age of the petitioners.

(b) The age of the child sought to be adopted and the period that the child has lived in the home of petitioners before the filing of the petition.

(c) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.

(d) Their desire that the name of the child be changed, together with the new name desired.

(e) That the petitioners are fit and proper persons to have the care and custody of the child.

(f) That they are financially able to provide for the child.

(g) That there has been a full compliance with the law in regard to consent to adoption.

(h) That there has been a full compliance with NRS 127.220 to 127.310, inclusive.

(i) Whether the child is known to be an Indian child.

(j) *That there are no known signs that the child is currently experiencing victimization from human trafficking, exploitation or abuse.*

3. No order of adoption may be entered unless there has been full compliance with the provisions of NRS 127.220 to 127.310, inclusive.

Sec. 5.7. NRS 127.123 is hereby amended to read as follows:

127.123 Notice of the filing of a petition for the adoption of a child must be provided to ~~the~~ *all* legal ~~custodian~~ *custodians* or ~~guardian~~ *guardians*

of the child ~~if that custodian or guardian is a person other than the natural~~
who are not a legal parent of the child.

Sec. 5.8. NRS 127.160 is hereby amended to read as follows:

127.160 Upon the entry of an order of adoption, the child shall become the legal child of the persons adopting the child, and they shall become the child's legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption the child shall inherit from his or her adoptive parents or their relatives the same as though the child were the legitimate child of such parents, and in case of the death of the child intestate the adoptive parents and their relatives shall inherit the child's estate as if they had been the child's natural parents and relatives in fact. After a decree of adoption is entered, ~~the natural parents of an adopted child shall be~~ **any parent who has signed a relinquishment or given consent to terminate his or her parental rights** is relieved of all parental responsibilities for ~~such~~ **the adopted child** ~~and they~~ and shall not exercise or have any rights over ~~such~~ **the adopted child** or the property of ~~such~~ **the adopted child**. The child ~~shall~~ **does** not owe ~~this or her natural parents or their relatives~~ **a parent whose parental rights have been terminated** any legal duty ~~nor shall the child~~ **and may not** inherit from ~~this or her natural parents~~ **a parent whose parental rights have been terminated** or **his or her** kindred. Notwithstanding any other provisions to the contrary in this section, the adoption of a child ~~by his or her stepparent shall~~ **does** not in any way change the status of the relationship between the child and ~~this or her natural parent~~ **any legal parent** who is ~~the spouse of the petitioning stepparent~~ **a petitioner and whose parental rights have not been terminated**.

Sec. 5.85. NRS 127.165 is hereby amended to read as follows:

127.165 1. ~~The natural parent~~ **A prior parent** of a child may not bring an action to set aside an adoption after a petition for adoption has been granted, unless a court of competent jurisdiction has previously, in a separate action:

- (a) Set aside the consent to the adoption;
- (b) Set aside the relinquishment of the child for adoption; or
- (c) Reversed an order terminating the parental rights of the ~~natural~~ parent.

2. After a petition for adoption has been granted, there is a presumption for the purposes of this chapter that remaining in the home of the adopting ~~parent~~ **parents** is in the child's best interest.

Sec. 5.9. NRS 127.2827 is hereby amended to read as follows:

127.2827 1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. The court shall incorporate an order for visitation provided to the court pursuant to subsection 1 into the decree of adoption unless, not later than 30 days after notice of the filing of the petition for adoption is provided to ~~the~~

all legal ~~[custodian]~~ *custodians* or ~~[guardian]~~ *guardians* of the child ***who are required to be provided with such notice*** pursuant to NRS 127.123, any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency petitions the court to exclude the order of visitation with a sibling from the decree of adoption or amend the order for visitation before including the order in the decree of adoption.

3. The hearing on a petition submitted pursuant to subsection 2 must be held on a different date than the hearing on the petition for adoption. Any interested party is entitled to participate in the hearing. The clerk of the court shall give written notice of the time and place of the hearing to the adoptive parent, the adoptive child, a sibling of the adoptive child, the attorney for the adoptive child or a sibling of the adoptive child, the agency which provides child welfare services and a licensed child-placing agency. Upon the petition of a sibling requesting the inclusion of an order for visitation in the decree of adoption, the court may require the agency which provides child welfare services or the child-placing agency to provide the clerk of the court with the contact information of the adoptive parent, the adoptive child and the attorney for the adoptive child. If so ordered, the agency which provides child welfare services or the child-placing agency must provide such contact information under seal.

4. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child. If a petition is submitted pursuant to subsection 2, the court must not enter a decree of adoption until the court has made a determination concerning visitation with a sibling.

5. If an order for visitation with a sibling is included in a decree of adoption, the court shall, upon the request of a party to the order, provide to the party the case number of the adoption proceeding and any documents or records necessary to enforce the order.

6. A party to an order for visitation may petition for enforcement of the order at any time while the order is in effect. A person who fails to comply with the order is in contempt of court. If a party to an order for visitation withholds the contact information of any person in violation of the order, the court may order the agency which provides child welfare services or a licensed child-placing agency to provide such contact information to the court under seal.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. The preliminary chapter of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law and unless any of the following interpretations is not possible given the context in which a reference is used or a particular statute expressly provides otherwise, if more

than two people have a parent and child relationship with a child pursuant to a prior court order, any reference to:

1. The parents of a child, including, without limitation, a reference to two parents of a child or both parents of a child, must be interpreted to include any person whom a court has determined to be a parent of the child.

2. A parent of a child, including, without limitation, a reference to either parent of a child, a natural parent of a child or a father or mother of a child, must be interpreted to include any person whom a court has determined to be a parent of the child.

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective upon passage and approval.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 589 to Assembly Bill No. 115.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 158.

The following Senate amendment was read:

Amendment No. 641.

AN ACT relating to crimes; establishing and revising the penalties for certain offenses involving alcohol, marijuana and cannabis; requiring the automatic sealing of records relating to certain offenses involving alcohol, marijuana and cannabis; providing juvenile courts with exclusive jurisdiction over offenses relating to alcohol or marijuana committed by children; establishing provisions relating to the issuance of citations for offenses relating to alcohol or marijuana committed by children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for a person who is under 21 years of age to: (1) purchase, consume or possess alcohol; (2) falsely represent himself or herself to be 21 years of age to obtain alcohol; or (3) falsely represent himself or herself to be 21 years of age or older to obtain cannabis. (NRS 202.020, 202.040, 678D.310) Additionally, existing law makes it a misdemeanor to possess 1 ounce or less of marijuana without being authorized to possess cannabis. (NRS 453.336) Existing law provides that unless the statute in force at the time of commission of a misdemeanor prescribes a different penalty, a misdemeanor is punishable by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment. (NRS 193.150)

~~Sections 1, 2, 3 and 4 of this bill revise the penalties for [the first and second violations, respectively], a violation of each such offense. [For the first violation, sections]~~ **Sections 1, 2, 3 and 4**, respectively, provide that a person: (1) is not subject to imprisonment in the county jail or a fine; **and** (2) must perform not more than 24 hours of community service ~~and (3) must~~ attend

a meeting of a panel of victims of persons injured or killed by a person who was driving under the influence of alcohol or a controlled substance ~~[. For the second offense, sections 1, 2, 3 and 4, respectively, provide that a person: (1) is not subject to imprisonment in the county jail or a fine; and (2) must complete not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances.]~~ **or undergo an evaluation to determine whether the person has an alcohol or other substance use disorder, or any combination thereof.**

Sections 1, 2, 3 and 4, respectively, also require the court to automatically seal records relating to such convictions if the offender completes the terms and conditions imposed by the court.

Existing law defines “child,” for the purposes of juvenile justice, as a person who is: (1) less than 18 years of age; (2) less than 21 years of age and is subject to the jurisdiction of the juvenile court for an unlawful act committed before the person reached 18 years of age; or (3) subject to the jurisdiction of the juvenile court as a juvenile sex offender. (NRS 62A.030) **Section 2.8** of this bill: (1) establishes penalties for certain unlawful acts relating to the possession or consumption of alcohol or the possession of less than 1 ounce of marijuana committed by children; and (2) requires a child who commits such unlawful acts to be punished in accordance with the penalties for children instead of those penalties set forth in **section 1 or 3**. ~~[of this bill.]~~ **Section 2.8 provides that a child who commits such unlawful acts is, for a first or second offense, a child in need of supervision and is not a delinquent child.**

Existing law establishes the jurisdiction of juvenile courts. (NRS 62B.320) **Section 2.2** of this bill expands the jurisdiction of juvenile courts to include offenses committed by children relating to the possession or consumption of alcohol or offenses relating to possessing 1 ounce or less of marijuana. **Section 2.4** of this bill makes a conforming change relating to the jurisdiction of juvenile courts.

Existing law authorizes a peace officer to issue a child a citation for certain traffic offenses and tobacco related offenses. (NRS 62C.070, 62C.072) **Section 2.6** of this bill establishes provisions authorizing a peace officer to issue a child a citation for certain offenses relating to the possession or consumption of alcohol or the possession of 1 ounce or less of marijuana.

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

Section 1. NRS 202.020 is hereby amended to read as follows:

202.020 1. Except as otherwise provided in this section, a person under 21 years of age who purchases any alcoholic beverage or ~~any such person who~~ consumes any alcoholic beverage in any saloon, resort or premises where spirituous, malt or fermented liquors or wines are sold is guilty of a misdemeanor ~~+~~ **and shall be punished + by:**

(a) ~~For a first offense, by:~~

~~— (1) Performing not more than 24 hours of community service; and~~
~~— (2) (b) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.~~

~~— (b) For a second offense, by completion of not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances, and complying with any other requirements set forth in that section; or~~

~~— (c) For a third or subsequent offense, as provided in NRS 193.150, Being required to undergo an evaluation in accordance with subsection 2 of NRS 484C.350,~~

~~↪ or any combination thereof.~~

2. Except as otherwise provided in this section, a person under 21 years of age who, for any reason, possesses any alcoholic beverage in public is guilty of a misdemeanor ~~and shall be punished by~~ by:

~~(a) For a first offense, by~~

~~— (1) Performing not more than 24 hours of community service; and~~
~~— (2) (b) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.~~

~~— (b) For a second offense, by completion of not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances, and complying with any other requirements set forth in that section; or~~

~~— (c) For a third or subsequent offense, as provided in NRS 193.150, Being required to undergo an evaluation in accordance with subsection 2 of NRS 484C.350,~~

~~↪ or any combination thereof.~~

3. If a person under 21 years of age fulfills the terms and conditions imposed for a violation of subsection 1 or 2, the court shall, without a hearing, order sealed all documents, papers and exhibits in that 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. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

4. A person under 21 years of age is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the person requests emergency medical assistance for another person whom he or she reasonably believes is under 21 years of age if the person making the request:

(a) Reasonably believes that the person who consumed the alcohol is in need of such assistance because of the alcohol consumption;

(b) Is the first person to request emergency medical assistance for the person;

(c) Remains with the person until informed that his or her presence is no longer necessary by the emergency medical personnel who respond to the request for assistance for the person; and

(d) Cooperates with any provider of emergency medical assistance, any other health care provider who assists the person who may be in need of emergency medical assistance because of alcohol consumption and any law enforcement officer.

~~4-1~~ 5. A person under 21 years of age for whom another person requests emergency medical assistance pursuant to subsection ~~3-1~~ 4 is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2.

~~5-1~~ 6. A person under 21 years of age is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the person:

(a) Requests emergency medical assistance because he or she reasonably believes that he or she is in need of medical assistance because of alcohol consumption; and

(b) Cooperates with any provider of emergency medical assistance, any other health care provider who provides assistance to him or her and any law enforcement officer.

~~6-1~~ 7. This section does not preclude a local governmental entity from enacting by ordinance an additional or broader restriction, except that any such ordinance must not conflict with the provisions of subsection ~~3-1, 4 or~~ 4, 5 or 6 or create criminal liability for a person to whom an exemption set forth in subsection ~~3-1, 4 or~~ 4, 5 or 6 applies.

~~7-1~~ 8. For the purposes of this section, possession “in public” includes possession:

(a) On any street or highway;

(b) In any place open to the public; and

(c) In any private business establishment which is in effect open to the public.

~~8-1~~ 9. The term does not include:

(a) Possession for an established religious purpose;

(b) Possession in the presence of the person’s parent, spouse or legal guardian who is 21 years of age or older;

(c) Possession in accordance with a prescription issued by a person statutorily authorized to issue prescriptions;

(d) Possession in private clubs or private establishments; or

(e) The selling, handling, serving or transporting of alcoholic beverages by a person in the course of his or her lawful employment by a licensed manufacturer, wholesaler or retailer of alcoholic beverages.

Sec. 2. NRS 202.040 is hereby amended to read as follows:

202.040 ~~Every minor~~

1. A person who is under 21 years of age and who ~~shall~~ falsely ~~represent~~ **represents** himself or herself to be 21 years of age **or older** in order

to obtain any intoxicating liquor ~~{shall be}~~ is guilty of a misdemeanor ~~{}~~ and shall be punished ~~{}~~ by:

- (a) ~~{For a first offense, by:~~
~~(1) Performing not more than 24 hours of community service; and~~
~~(2) (b) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.~~
~~(b) For a second offense, by completion of not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances, and complying with any other requirements set forth in that section; or~~
~~(c) {For a third or subsequent offense, as provided in NRS 193.150.}~~
Being required to undergo an evaluation in accordance with subsection 2 of NRS 484C.350,
↪ or any combination thereof.

2. If a person under 21 years of age fulfills the terms and conditions imposed for a violation of this section, the court shall, without a hearing, order sealed all documents, papers and exhibits in that 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. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

Sec. 2.2. NRS 62B.320 is hereby amended to read as follows:

62B.320 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:

- (a) Is subject to compulsory school attendance and is a habitual truant from school;
- (b) Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable;
- (c) Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation;
- (d) Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of NRS 200.737;
- (e) Transmits or distributes an image of bullying committed against a minor in violation of NRS 200.900;
- (f) Violates a county or municipal ordinance imposing a curfew on a child;
- (g) Violates a county or municipal ordinance restricting loitering by a child;
- ~~{or}~~
- (h) Commits an offense related to tobacco ~~{}~~; or
- (i) Commits an alcohol or marijuana offense ~~{related to consuming or possessing alcohol; or~~

~~(j) Commits an offense related to the possession of 1 ounce or less of marijuana that is punishable pursuant to paragraph (a) of subsection 1 of section 2.8 of this act.~~

2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.

3. The provisions of subsection 1 do not prohibit the imposition of administrative sanctions pursuant to NRS 392.148 against a child who is subject to compulsory school attendance and is a habitual truant from school.

4. As used in this section:

(a) **“Alcohol or marijuana offense” has the meaning ascribed to it in section 2.8 of this act.**

(b) “Bullying” means a willful act which is written, verbal or physical, or a course of conduct on the part of one or more persons which is not otherwise authorized by law and which exposes a person one time or repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and:

(1) Is intended to cause or actually causes the person to suffer harm or serious emotional distress;

(2) Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person;

(3) Places the person in reasonable fear of harm or serious emotional distress; or

(4) Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

~~(b)~~ **(c)** “Electronic communication device” has the meaning ascribed to it in NRS 200.737.

~~(c)~~ **(d)** “Sexual image” has the meaning ascribed to it in NRS 200.737.

Sec. 2.4. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

(a) Violates a county or municipal ordinance other than those ~~specified~~ :

(1) Specified in paragraph (f) ~~or~~ or (g) ~~or (i) or (j)~~ of subsection 1 of NRS 62B.320 ~~for~~ ;

(2) Concerning an offense related to tobacco; **or**

(3) Relating to the consumption or possession of alcohol or the possession of 1 ounce or less of marijuana that are punishable pursuant to paragraph (a) of subsection 1 of section 2.8 of this act;

(b) Violates any rule or regulation having the force of law; or

(c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense, if the person was 16 years of age or older when the murder or attempted murder was committed.

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person 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.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 2.6. Chapter 62C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A peace officer may prepare and issue a citation in the same manner in which a traffic citation is prepared and issued pursuant to NRS 62C.070 ~~if~~ if the child is stopped or otherwise detained by the peace officer for:

(a) A violation of NRS 202.020;

(b) A violation of a city or county ordinance relating to the consumption or possession of alcohol; ~~for~~

(c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or less of marijuana ~~if~~; or

(d) A violation of a city or county ordinance relating to the possession of 1 ounce or less of marijuana.

2. If a child who is issued a citation pursuant to subsection 1 executes a written promise to appear in court by signing the citation, the peace officer:

(a) Shall deliver a copy of the citation to the child; and

(b) Shall not take the child into physical custody for the violation unless:

(1) The peace officer believes that there is an imminent risk to the safety of the child or an imminent risk of harm to the child; and

(2) The safety of the child will not be ensured by placing the child with:

(I) An adult relative of the child;

(II) A treatment facility; or

(III) A shelter designed to assist children who run away from their parent or guardian or are victims of sex trafficking ~~if~~, other than a shelter used for the protection of children pursuant to the provisions of chapter 432B of NRS.

3. If a child who is issued a citation refuses to execute a written promise to appear in court 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 child into physical custody for the violation.

4. At the time that a child is issued a citation pursuant to subsection 1, the peace officer shall make reasonable attempts to notify a parent or guardian of the child, and a peace officer shall not take the child into custody by reason alone of being unable to contact the parent or child of the guardian.

Sec. 2.8. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a child commits an alcohol or marijuana offense:*

(a) *For a first or second offense:*

~~(1) The complaint must be referred to a probation officer pursuant to NRS 62C.100;~~ *child is a child in need of supervision and is not a delinquent child, and the child ~~may~~ must be placed under informal supervision pursuant to NRS 62C.200; and*

(2) The child shall perform not more than 24 hours of community service.

~~(b) *For a second offense:*~~

~~(1) The complaint must be referred to a probation officer pursuant to NRS 62C.100 and the child may be placed under informal supervision pursuant to NRS 62C.200; and~~

~~(2) The child shall perform not more than 24 hours of community service.~~

~~(c) *For a third or subsequent offense, a district attorney may file a petition alleging delinquency.*~~

2. *As used in this section, “alcohol or marijuana offense” means:*

(a) *A violation of NRS 202.020;*

(b) A violation of a city or county ordinance relating to the consumption or possession of alcohol; ~~for~~

(c) A violation of subsection 4 of NRS 453.336 for possession of 1 ounce or less of marijuana ~~for~~; or

(d) A violation of a city or county ordinance relating to the possession of 1 ounce or less of marijuana.

Sec. 3. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection 5, a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385 or 453.339, a person who violates this section:

(a) For a first or second offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, is guilty of possession of a controlled substance and shall be punished for a category E felony as provided in NRS 193.130. In accordance with NRS 176.211, the court shall defer judgment upon the consent of the person.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, is guilty of possession of a controlled substance and shall be punished for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) If the controlled substance is listed in schedule I or II and the quantity possessed is 14 grams or more, but less than 28 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 28 grams or more, but less than 200 grams, is guilty of low-level possession of a controlled substance and shall be punished for a category C felony as provided in NRS 193.130.

(d) If the controlled substance is listed in schedule I or II and the quantity possessed is 28 grams or more, but less than 42 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 200 grams or more, is guilty of mid-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than \$50,000.

(e) If the controlled substance is listed in schedule I or II and the quantity possessed is 42 grams or more, but less than 100 grams, is guilty of high-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than \$50,000.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana ~~is~~

~~(a) For the first offense, is guilty of a misdemeanor and shall be punished by:~~

~~1. (1) (a) Performing not more than 24 hours of community service; and~~

~~2. (2) (b) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.~~

~~(b) For the second offense, is guilty of a misdemeanor and shall be:~~

~~(1) Punished by a fine of not more than \$600; completion of not more than 100 hours of counseling or participation in an educational program, a~~

~~support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances; or~~

~~— (2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.~~

~~— (b) ~~(e)~~ For the second ~~third~~ offense, is guilty of a misdemeanor and shall be:~~

~~— (1) Punished by a fine of not more than \$1,000; or~~

~~— (2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.~~

~~— (c) ~~(d)~~ For the third ~~fourth~~ offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.~~

~~— (d) ~~(e)~~ For a fourth ~~fifth~~ or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.] and complying with any other requirements set forth in that section; or~~

~~(c) Being required to undergo an evaluation in accordance with subsection 1 of NRS 484C.350,~~

~~↪ or any combination thereof.~~

5. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

6. The court may grant probation to or suspend the sentence of a person convicted of violating this section.

7. *If a person fulfills the terms and conditions imposed for a violation of subsection 4, the court shall, without a hearing, order sealed all documents, papers and exhibits in that 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. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.*

8. As used in this section:

(a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) "Marijuana" does not include concentrated cannabis.

(c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS 439.986.

Sec. 3.5. NRS 484C.350 is hereby amended to read as follows:

484C.350 1. If an offender is found guilty of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, ~~for~~ if an offender is found guilty

of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400 ~~or if the offender is found guilty of a violation of paragraph (a) of subsection 4 of NRS 453.336~~, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender has an alcohol or other substance use disorder.

2. If an offender is convicted of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the offender is under 21 years of age at the time of the violation ~~or if the offender is convicted of a violation of subsection 1 or 2 of NRS 202.020, subsection 1 of NRS 202.040 or paragraph (a) of subsection 4 of NRS 678D.310~~, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender has an alcohol or other substance use disorder.

3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

(a) An alcohol and drug counselor who is licensed or certified, or a clinical alcohol and drug counselor who is licensed, pursuant to chapter 641C of NRS, to make that evaluation;

(b) A physician who is certified to make that evaluation by the Board of Medical Examiners; or

(c) An advanced practice registered nurse who is certified to make that diagnosis by the State Board of Nursing,

➡ who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

4. The evaluation of an offender who resides more than 30 miles from an evaluation center may be conducted outside an evaluation center by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

5. The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician, advanced practice registered nurse or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

6. The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician, advanced practice registered nurse or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician, advanced practice registered nurse or other person in the other

state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

7. An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. An evaluation center or a person who conducts an evaluation in this State outside an evaluation center shall not charge an offender more than \$100 for the evaluation.

Sec. 4. NRS 678D.310 is hereby amended to read as follows:

678D.310 1. Except as otherwise provided in chapter 678C of NRS, ~~any~~ a person shall not:

(a) Cultivate cannabis within 25 miles of an adult-use cannabis retail store licensed pursuant to chapter 678B of NRS, unless the person is an adult-use cannabis cultivation facility or is a cannabis establishment agent volunteering at, employed by or providing labor to an adult-use cannabis cultivation facility;

(b) Cultivate cannabis plants where they are visible from a public place by normal unaided vision; or

(c) Cultivate cannabis on property not in the cultivator's lawful possession or without the consent of the person in lawful physical possession of the property.

2. A person who violates the provisions of subsection 1 is guilty of:

(a) For a first violation, a misdemeanor punished by a fine of not more than \$600.

(b) For a second violation, a misdemeanor punished by a fine of not more than \$1,000.

(c) For a third violation, a gross misdemeanor.

(d) For a fourth or subsequent violation, a category E felony.

3. A person who smokes or otherwise consumes cannabis or a cannabis product in a public place, in an adult-use cannabis retail store or in a vehicle is guilty of a misdemeanor punished by a fine of not more than \$600.

4. A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain cannabis is guilty of a misdemeanor ~~and shall be punished by~~ and shall be punished by:

~~(a) For a first offense, by~~

~~(1) Performing not more than 24 hours of community service; and~~

~~(2) Attending the live meeting described in paragraph (a) of subsection 2 of NRS 484C.530.~~

~~(b) For a second offense, by completion of not more than 100 hours of counseling or participation in an educational program, a support group relating to the use of alcohol or other substances or another program of treatment for the use of alcohol or other substances, and complying with any other requirements set forth in that section; or~~

~~(c) For a third or subsequent offense, as provided in NRS 193.150.~~
Being required to undergo an evaluation in accordance with subsection 2 of NRS 484C.350,

↪ or any combination thereof.

5. *If a person under 21 years of age fulfills the terms and conditions imposed for a violation of subsection 4, the court shall, without a hearing, order sealed all documents, papers and exhibits in that 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. The court shall cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.*

6. A person under 21 years of age who knowingly enters, loiters or remains on the premises of an adult-use cannabis establishment shall be punished by a fine of not more than \$500 unless the person is authorized to possess cannabis pursuant to chapter 678C of NRS and the adult-use cannabis establishment is a dual licensee.

~~{6-}~~ 7. A person who manufactures cannabis by chemical extraction or chemical synthesis, unless done pursuant to an adult-use cannabis establishment license for an adult-use cannabis production facility issued by the Board or authorized by this title, is guilty of a category E felony.

~~{7-}~~ 8. A person who knowingly gives cannabis or a cannabis product to any person under 21 years of age or who knowingly leaves or deposits any cannabis or cannabis product in any place with the intent that it will be procured by any person under 21 years of age is guilty of a misdemeanor.

~~{8-}~~ 9. A person who knowingly gives cannabis to any person under 18 years of age or who knowingly leaves or deposits any cannabis in any place with the intent that it will be procured by any person under 18 years of age is guilty of a gross misdemeanor.

Sec. 5. The amendatory provisions of sections 1, 2, 3 and 3.5 of this act apply to an offense committed:

1. Before October 1, 2021, if the person is sentenced on or after October 1, 2021.

2. On or after October 1, 2021.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 641 to Assembly Bill No. 158.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 202.

The following Senate amendment was read:

Amendment No. 659.

AN ACT relating to gaming; **revising the definition of “qualified organization”**; revising provisions relating to the registration of a qualified organization to operate a charitable lottery or charitable game; **revising provisions relating to the prohibition against the registration of a qualified organization to operate a charitable lottery or charitable game in certain**

circumstances; establishing provisions concerning online ticket sales conducted by qualified professional sports organizations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a qualified organization must register with the Chair of the Nevada Gaming Control Board before operating a charitable lottery. (NRS 462.140) Existing law defines a “qualified organization” as an alumni, charitable, civic, educational, fraternal, patriotic, religious or veterans’ organization or a state or local bar association that ~~does not operate~~ **has been certified by the Department of Taxation or the Internal Revenue Service as not operated** for profit. (NRS 462.125) ~~Also, existing~~ **Section 1 of this bill additionally provides that any such organization or state or local bar association is a qualified organization if it is registered with the Secretary of State as a charitable organization that solicits charitable contributions.**

Existing law requires the Nevada Gaming Commission, upon recommendation by the Board, to adopt regulations establishing the fees that a qualified organization must submit to the Chair to operate a charitable lottery or charitable game. (NRS 462.160) ~~This~~ **Section 2 of this bill** provides that if the total value of the prizes offered by the qualified organization in the same calendar year is less than \$100,000: (1) the qualified organization must register annually with the Board; and (2) the regulations adopted by the Commission must not impose an annual fee that exceeds \$10 on such a qualified organization.

Existing law prohibits the Chair from registering a qualified organization to operate a charitable lottery or charitable game outside this State. (NRS 462.180) **Section 2.5 of this bill additionally prohibits the Chair from registering a qualified organization to operate a charitable lottery or charitable game through the use of a video lottery terminal or any other mechanical, electromechanical or electronic device or machine that performs all the functions of a lottery by itself or when networked with other similar devices or machines.**

Existing law provides that online ticket sales for a charitable lottery or charitable game are required to be approved by the Chair. (NRS 462.180) **Section 2.5 provides that a qualified professional sports organization is authorized to conduct approved online ticket sales in conjunction with a charitable lottery offering a cash prize only: (1) on a day that the professional sports team franchise affiliated with the qualified professional sports organization is playing a home game in this State; and (2) if such online ticket sales are restricted to the use of mobile devices in the arena or stadium of the professional sports team franchise or on any parcel of land upon which the arena or stadium is situated.**

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

Section 1. NRS 462.125 is hereby amended to read as follows:

462.125 “Qualified organization” means an alumni, charitable, civic, educational, fraternal, patriotic, religious or veterans’ organization or a state or local bar association that ~~has~~;

1. Has been certified by the Department of Taxation or the Internal Revenue Service as not operated for profit ~~or~~;

2. Is registered with the Secretary of State as a charitable organization that solicits charitable contributions pursuant to NRS 82A.100.

~~[Section 1.]~~ **Sec. 2.** NRS 462.160 is hereby amended to read as follows:

462.160 1. ~~[To]~~ ***Except as otherwise provided in subsection 3, to*** register with the Chair to operate a charitable lottery or charitable game, a qualified organization must submit to the Chair:

(a) A written application containing:

(1) The name, address and nature of the organization.

(2) Proof that the organization is a qualified organization.

(3) The names of the officers or principals of the organization, and of any person responsible for the management, administration or supervision of the organization’s charitable lotteries or charitable games and any activities related to those charitable lotteries or charitable games.

(4) A listing of vendors who will assist with each charitable lottery or charitable game operated by the organization and the services that will be provided.

(5) A description of all the prizes to be offered in each charitable lottery or charitable game operated by the organization.

(6) A summary of the anticipated expenses of conducting each charitable lottery or charitable game, including copies of any proposed agreements between the organization and any suppliers of material for the operation of each charitable lottery or charitable game.

(7) A description of the intended use of the net proceeds of each charitable lottery or charitable game operated by the organization.

(8) The address of the location where each charitable lottery or charitable game will be conducted by the organization.

(9) The operational controls for each charitable lottery or charitable game, including, without limitation:

(I) The methods proposed for ticket sales and, if proposing mobile, online or telephone sales, the procedures for such sales;

(II) The audit controls for all ticket sales in this State to ensure compliance with NRS 462.180;

(III) The rules which will be presented to the public for each charitable lottery or charitable game;

(IV) The method of awarding all prizes and announcing all winners to the public; and

(V) The rules and time frames for the collection of all prizes.

(10) A statement verifying that all charitable lotteries or charitable games will be conducted in accordance with the standards of honesty and integrity

applicable to licensed gambling games in this State and that any prizes that would be deemed illegal under state or federal law will not be offered.

(11) Any other information the Chair deems appropriate.

(b) All applicable fees established by the Commission by regulation pursuant to subsection ~~3.1~~ 4.

2. A qualified organization shall submit such additional information as necessary to correct or complete any information submitted pursuant to this section that becomes inaccurate or incomplete. The registration of a qualified organization is suspended during the period that any of the information is inaccurate or incomplete. The Chair may reinstate the registration of the organization only after all information has been corrected and completed.

3. *If the total value of the prizes offered by a qualified organization in the same calendar year is less than \$100,000:*

(a) *The qualified organization must register annually with the Board; and*

(b) *The regulations adopted by the Commission pursuant to subsection 4 must not impose an annual fee that exceeds \$10 on such a qualified organization.*

4. The Commission, upon recommendation by the Board, shall adopt regulations establishing the fees that a qualified organization must submit to the Chair pursuant to this section.

~~4.1~~ 5. The money collected pursuant to this section must be expended to administer and enforce the provisions of this chapter.

Sec. 2.5. NRS 462.180 is hereby amended to read as follows:

462.180 1. The Chair shall not register a qualified organization to operate a charitable lottery or charitable game outside this State ~~1.1~~ or through the use of a video lottery terminal or any other mechanical, electromechanical or electronic device or machine that performs all the functions of a lottery by itself or when networked with other similar devices or machines.

2. Statewide ticket sales and online *ticket* sales are permitted upon approval by the Chair, but all lottery ticket sales must be limited to persons who are physically located within this State at the time of purchase.

3. A qualified professional sports organization may conduct approved online ticket sales in conjunction with a charitable lottery offering a cash prize only:

(a) On a day that the professional sports team franchise with which the qualified professional sports organization is affiliated is playing a home game in this State; and

(b) If such online ticket sales are restricted to the use of mobile devices in the arena or stadium of the professional sports team franchise or on any parcel of land upon which the arena or stadium is situated.

4. As used in this section, “qualified professional sports organization” has the meaning ascribed to it in NRS 462.140.

~~{Sec. 2.}~~ Sec. 3. This act becomes effective ~~upon passage and approval.~~ on July 1, 2021.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 659 to Assembly Bill No. 202.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 214.

The following Senate amendment was read:

Amendment No. 498.

ASSEMBLYWOMEN CONSIDINE AND KRASNER

JOINT SPONSOR: SENATOR SCHEIBLE

AN ACT relating to sexual assault; revising the definition of sexual assault by replacing gendered language with gender-neutral language; **requiring the Advisory Commission on the Administration of Justice to appoint a subcommittee to conduct an interim study concerning sexual assault and to make a report to the Advisory Commission;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person is guilty of sexual assault if he or she: (1) subjects another person to sexual penetration, or forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct; or (2) commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast. (NRS 200.366) ~~[This]~~ **Section 1 of this** bill revises the definition of sexual assault by replacing the gendered language in the statute with gender-neutral language.

Existing law creates the Advisory Commission on the Administration of Justice and requires the Advisory Commission, among other duties, to evaluate and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) Section 2 of this bill requires the Advisory Commission to appoint a subcommittee to conduct an interim study concerning sexual assault and to make a report to the Advisory Commission.

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

Section 1. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person is guilty of sexual assault if ~~he or she~~ ***the person***:

(a) Subjects another person to sexual penetration, or forces another person to make a sexual penetration on ~~himself or herself~~ ***themselves*** or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically

incapable of resisting or understanding the nature of ~~his or her~~ *the perpetrator's* conduct; or

(b) Commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on ~~himself or herself~~ *the child themselves* or another, or on a beast.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

➤ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. The provisions of this section do not apply to a person who is less than 18 years of age and who commits any of the acts described in paragraph (b) of subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:

(a) The person committing the act uses force or threatens the use of force;
or

(b) The person committing the act knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of ~~this or her~~ ~~the person's~~ the perpetrator's conduct.

6. For the purpose of this section, “other sexual offense against a child” means any act committed by an adult upon a child constituting:

- (a) Incest pursuant to NRS 201.180;
- (b) Lewdness with a child pursuant to NRS 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262; or
- (d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 2. 1. The Advisory Commission on the Administration of Justice created by NRS 176.0123 shall appoint a subcommittee to conduct an interim study concerning sexual assault, and make a report thereof.

2. The study and report must include, without limitation:

(a) An evaluation of:

- (1) The laws governing sexual assault in this State;**
- (2) The laws governing sexual assault in other states and territories of the United States; and**
- (3) Any other matter that the Advisory Commission determines is relevant to the study.**

(b) Recommendations and input from attorneys, victims and any other stakeholders concerning necessary changes to the laws governing sexual assault in this State.

3. The subcommittee shall submit a report of the results of the study and any recommendations for legislation to the Advisory Commission not later than September 1, 2022.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 2021.

2. Section 1 of this act becomes effective on October 1, 2021.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 498 to Assembly Bill No. 214.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 237.

The following Senate amendment was read:

Amendment No. 658.

AN ACT relating to real property; establishing a process for the ~~Commission for Common Interest Communities and Condominium Hotels;~~ **Real Estate Division of the Department of Business and Industry** to investigate complaints alleging violations of provisions governing certain fees which may be imposed or charged by a unit-owners’ association for a common-interest community; revising provisions pertaining to the applicability of certain provisions of law governing the creation, alteration and

termination of common-interest communities; prohibiting a unit-owners' association from imposing or charging certain fees other than or in excess of those that the association is expressly authorized or required by statute to impose or charge; increasing the cost of a demand or intent to lien letter; revising provisions relating to the exemption from providing certain information in the case of certain dispositions of a unit in a common-interest community; requiring certain notice to be provided for a foreclosure sale; revising provisions relating to the sale of real property consisting of several lots or parcels; revising provisions regarding the ascertainment of title of real property to be partitioned; making certain technical changes and removing certain obsolete provisions; revising provisions concerning instruments that subordinate or waive priority of a mortgage or deed of trust of, lien upon or interest in real property; revising provisions relating to certain liens on real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a unit-owners' association for a common-interest community to charge certain fees for opening or closing a file relating to a unit and preparing a certificate containing certain information which is required to be provided by a unit's owner or his or her authorized agent to a purchaser in a resale package. (NRS 116.3102, 116.4109) **Section 5.5** of this bill: (1) provides for an inflationary adjustment of the maximum amount of the fee that may be imposed for opening or closing a file relating to a unit; and (2) prohibits the imposition of a fee for those services other than or in excess of the ~~enumerated~~ **authorized** fees. **Section 7.2** of this bill: (1) establishes a statutory maximum fee which may be charged for a certificate containing certain information which is required in a resale package; and (2) prohibits the imposition of a fee for providing such a certificate or related services other than or in excess of the ~~enumerated~~ **authorized** fees. **Section 1.5** of this bill establishes a process for the ~~Commission for Common Interest Communities and Condominium Hotels~~ **Real Estate Division of the Department of Business and Industry** to investigate complaints alleging violations of the fee provisions and imposes administrative fines for such violations. **Sections 7.4-7.8** of this bill make conforming changes to indicate the placement of **section 1.5** within the Nevada Revised Statutes.

Existing law provides that chapter 116 of NRS, which pertains to common-interest ownership, generally applies to all common-interest communities created within this State, however the provisions of chapter 116 of NRS do not require a common-interest community created before January 1, 1992, to comply with certain provisions governing the creation, alteration and termination of common-interest communities. (NRS 116.1201) Existing law also provides that the provisions of chapter 116 of NRS do not apply to nonresidential condominiums or nonresidential planned communities except in certain circumstances, including when the declaration of such a condominium or planned community provides that only certain provisions governing the creation, alteration and termination of common-interest

communities and certain other provisions apply to the condominium or planned community. (NRS 116.12075, 116.12077) **Sections 2, 4 and 5** of this bill revise such provisions to include a reference to all provisions governing the creation, alteration and termination of common-interest communities.

Existing law authorizes a unit's owner, his or her authorized agent or the holder of a security interest on the unit to request a statement of demand from an association, which the association is required to provide not later than 10 days after receipt of the request. Existing law authorizes an association to charge a fee of not more than \$165 to prepare and provide such a statement. (NRS 116.4109) Existing law also provides that, with regard to enforcing an association's lien against a unit, the cost for a demand or intent to lien letter must not exceed \$150. (NRS 116.3116) **Section 6** of this bill increases such an amount to \$165 to conform with the amount an association is authorized to charge to prepare and provide a statement of demand.

Existing law generally requires a unit's owner whose unit is being sold, or his or her authorized agent, to provide to a purchaser a resale package containing certain information. Existing law requires an association, upon request by a unit's owner or his or her authorized agent, to provide to the unit's owner or his or her authorized agent certain documents for inclusion in a resale package, including a certificate that contains information necessary to enable the unit's owner to provide information required to be included in the resale package. (NRS 116.4109) Existing law provides that a public offering statement and such a certificate do not need to be prepared or delivered in the case of certain dispositions of a unit. (NRS 116.4101) **Section 7** of this bill instead provides that a public offering statement and the entire resale package do not need to be prepared or delivered in the case of such dispositions of a unit.

Existing law establishes certain specific requirements for providing notice of a sale of property on execution and additional requirements for a sale of property that is a residential foreclosure, which is the sale by foreclosure of a single family residence comprised of not more than four units. (NRS 21.130) **Section 8** of this bill additionally requires that in the case of a foreclosure sale, which is the sale by foreclosure of any real property, notice must be given to: (1) each person who has recorded a request for a copy of a notice of default or notice of sale with respect to the mortgage or other lien being foreclosed; (2) each other person with an interest in the real property whose interest or claimed interest is subordinate to the mortgage or other lien being foreclosed; and (3) an association that has recorded a request for a copy of a deed upon a foreclosure sale.

Existing law establishes certain requirements for the sale of real property that consists of several known lots or parcels. (NRS 21.150) **Section 9** of this bill provides that such requirements do not apply to the foreclosure of a mortgage or other lien upon real estate.

Existing law establishes provisions relating to an abstract of title concerning real property to be partitioned, which must be verified by the affidavit of the

person making the abstract of title. (NRS 39.180, 39.190) **Section 10** of this bill instead requires a court, to the extent necessary to grant appropriate relief, to ascertain the state of the title to the property to be partitioned pursuant to the report of a title company in which the title company certifies that it has issued a guarantee for the benefit of the plaintiff or defendant and that lists the names of each owner of record of the property and each holder of record of certain security interests in the property. **Section 11** of this bill authorizes any such guarantee issued by a title company that is incorrect to be corrected under the direction of the court.

Existing law generally provides that there can only be one action for the recovery of any debt or the enforcement of any right secured by a mortgage or other lien upon real estate, but specifies that such an action does not include any act or proceeding for the exercise of any right or remedy authorized by the Uniform Commercial Code. (NRS 40.430) **Section 12** of this bill makes a technical change to include a reference to additional articles of the Uniform Commercial Code as codified in the Nevada Revised Statutes.

Sections 13 and 14 of this bill remove obsolete provisions regarding certain mortgages of personal property or crops from the provisions of law relating to the recording of assignments of mortgages and the subordination or waiver of priority of mortgages and other interests in real property. **Section 14** also provides that an instrument that subordinates or waives priority of a mortgage or deed of trust of, lien upon or interest in real property is not enforceable in connection with a foreclosure or a trustee's sale until it is recorded.

Existing law authorizes a deed of trust to adopt by reference certain covenants, agreements, obligations, rights and remedies. (NRS 107.030) **Section 15** of this bill makes a technical change to provide uniformity in the language used in the covenants.

Existing law requires every owner of property who records a notice of waiver of owners' rights with the county recorder of the county in which the property is located before the commencement of construction of a work of improvement on the property to serve such notice on any prime contractor of the work of improvement and all other lien claimants who give the owner a notice of right to lien within 10 days after: (1) the owner's receipt of a notice to lien; or (2) the date on which the notice of waiver is recorded with the county recorder. (NRS 108.2405) **Section 16** of this bill provides that the 10-day time limitation applies to whichever of the two events occurs later.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding the provisions of NRS 116.745 to 116.795, inclusive, a person who is aggrieved by an alleged violation of subsection 6 of NRS 116.3102 or subsection 8 of NRS 116.4109 may file with the ~~Commission~~*

Division *a written complaint that sets forth the facts constituting the alleged violation. The complaint may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.*

2. ~~The Commission~~ Division shall:

(a) *Review a complaint filed pursuant to subsection 1 in a timely manner.*
(b) *If circumstances warrant, issue to the person who is alleged to have committed the violation a notice requesting a written response and proof of corrective action, including, without limitation, the reimbursement of any excessive fees to the aggrieved person.*

3. Failure to respond to a notice issued pursuant to paragraph (b) of subsection 2 within 30 days after receipt of the notice:

(a) *Shall be deemed to be an admission of the violation; and*
(b) *Is punishable by an administrative fine in the amount of \$250.*

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155, except that if the limited-purpose association is created for a rural agricultural residential common-interest community, the limited-purpose association is not required to pay the fee unless the association intends to use the services of the Ombudsman;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038;

(II) NRS 116.31083 and 116.31152, unless the limited-purpose association is created for a rural agricultural residential common-interest community;

(III) NRS 116.31073, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and

(IV) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) Common-interest communities or units located outside of this State, but NRS 116.4102 and 116.4103, and, to the extent applicable, NRS 116.41035 to 116.4107, inclusive, apply to a contract for the disposition of a unit in that

common-interest community signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(c) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 55,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(d) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to ~~116.2122~~, **116.2124**, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992;

(d) Except as otherwise provided in subsection 8 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government, except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives;

(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan; or

(f) Prohibit a master association which governs a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted and which is exempt from the provisions of this chapter pursuant to subsection 2 of NRS 116.12077 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 116.12075 is hereby amended to read as follows:

116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:

- (a) This entire chapter applies to the condominium;
- (b) Only the provisions of NRS 116.001 to ~~116.2122~~, **116.2124**, inclusive, and 116.3116 to 116.31168, inclusive, apply to the condominium; or
- (c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the condominium.

2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:

- (a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and
- (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 5. NRS 116.12077 is hereby amended to read as follows:

116.12077 1. The provisions of this chapter do not apply to a planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter or a part of this chapter does apply to that planned community pursuant to this section.

2. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

3. The declaration for the nonresidential planned community may provide that:

- (a) This entire chapter applies to the planned community;
- (b) Only the provisions of NRS 116.001 to ~~116.2122~~, **116.2124**, inclusive, and 116.3116 to 116.31168, inclusive, apply to the planned community; or
- (c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, apply to the planned community.

4. If this entire chapter applies to a nonresidential planned community pursuant to subsection 3, the declaration may also require, subject to NRS 116.1112, that:

(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and

(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

Sec. 5.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations.

(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) May hire and discharge managing agents and other employees, agents and independent contractors.

(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community. The association may not institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners with respect to an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, unless the action pertains to:

(1) Common elements;

(2) Any portion of the common-interest community that the association owns; or

(3) Any portion of the common-interest community that the association does not own but has an obligation to maintain, repair, insure or replace because the governing documents of the association expressly make such an obligation the responsibility of the association.

(e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) May regulate the use, maintenance, repair, replacement and modification of common elements.

(g) May cause additional improvements to be made as a part of the common elements.

(h) May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) May grant easements, leases, licenses and concessions through or over the common elements.

(j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) May impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) May impose construction penalties when authorized pursuant to NRS 116.310305.

(m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) May impose a reasonable fee for opening or closing any file for each unit. Such a fee:

(1) Must be based on the actual cost the association incurs to open or close any file.

(2) Must not exceed \$350. *Beginning on January 1, 2022, the monetary amount in this subparagraph must be adjusted for each calendar year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) published by the United States Department of Labor from December 2020 to the December preceding the calendar year for which the adjustment is calculated, but must not increase by more than 3 percent each year.*

(3) Must not be charged to both the seller and the purchaser of a unit.

(4) Except as otherwise provided in this subparagraph and subject to the limitation set forth in subparagraph (2), may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. The fee must not increase by more than 3 percent each year.

(p) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.

(q) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(r) May exercise any other powers conferred by the declaration or bylaws.

(s) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(t) May direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(u) May exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.

3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but

the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, “assessment” does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

6. *In providing any service or performing any act set forth in paragraph (n) or (o) of subsection 1, an association, or entity related to or acting on behalf of an association, shall not impose on a unit’s owner, the authorized agent of a unit’s owner, a purchaser or, pursuant to subsection 7 of NRS 116.4109, the holder of a security interest on a unit, a fee:*

(a) ~~Not enumerated~~ authorized in paragraph (n) or (o), as applicable, of subsection 1; or

(b) In an amount which exceeds any limitation provided or set forth in paragraph (n) or (o), as applicable, of subsection 1.

Sec. 6. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit’s owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit’s owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (o), inclusive, of subsection 1 of NRS 116.3102 and any costs of collecting a past due obligation charged pursuant to NRS 116.310313 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit’s owner’s interest and perfected before the date on which the assessment sought to be enforced became delinquent, except that a lien under this section is prior to a security interest described in this paragraph to the extent set forth in subsection 3;

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative; and

(d) Liens for any fee or charge levied pursuant to subsection 1 of NRS 444.520.

3. A lien under this section is prior to all security interests described in paragraph (b) of subsection 2 to the extent of:

(a) Any charges incurred by the association on a unit pursuant to NRS 116.310312;

(b) The unpaid amount of assessments, not to exceed an amount equal to assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding the date on which the notice of default and election to sell is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162; and

(c) The costs incurred by the association to enforce the lien in an amount not to exceed the amounts set forth in subsection 5,

➡ unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) of subsection 2 must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162 or the institution of a judicial action to enforce the lien.

4. This section does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

5. The amount of the costs of enforcing the association's lien that are prior to the security interest described in paragraph (b) of subsection 2 must not exceed the actual costs incurred by the association, must not include more than one trustee's sale guaranty and must not exceed:

(a) For a demand or intent to lien letter, ~~150~~ **\$165**.

(b) For a notice of delinquent assessment, \$325.

(c) For an intent to record a notice of default letter, \$90.

(d) For a notice of default, \$400.

(e) For a trustee's sale guaranty, \$400.

➡ No costs of enforcing the association's lien, other than the costs described in this subsection, and no amount of attorney's fees may be included in the amount of the association's lien that is prior to the security interest described in paragraph (b) of subsection 2.

6. Notwithstanding any other provision of law, an association, or member of the executive board, officer, employee or unit's owner of the association,

acting under the authority of this chapter or the governing documents of the association, or the community manager of the association, or any employee, agent or affiliate of the community manager, while engaged in the management of the common-interest community governed by the association, is not required to be licensed as a collection agency pursuant to chapter 649 of NRS or hire or contract with a collection agency licensed pursuant to chapter 649 of NRS to collect amounts due to the association in accordance with subsection 1 before the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162.

7. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

8. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

9. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

10. A lien for unpaid assessments is extinguished unless a notice of default and election to sell is recorded as required by paragraph (b) of subsection 1 of NRS 116.31162, or judicial proceedings to enforce the lien are instituted, within 3 years after the full amount of the assessments becomes due.

11. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

12. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

13. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

14. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

15. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

16. Notwithstanding any other provision of law, any payment of an amount due to an association in accordance with subsection 1 by the holder of any lien or encumbrance on a unit that is subordinate to the association's lien under this section becomes a debt due from the unit's owner to the holder of the lien or encumbrance.

Sec. 7. NRS 116.4101 is hereby amended to read as follows:

116.4101 1. NRS 116.4101 to 116.412, inclusive, apply to all units subject to this chapter, except as otherwise provided in subsection 2 or as modified or waived by agreement of purchasers of units in a common-interest community in which all units are restricted to nonresidential use.

2. Neither a public offering statement nor a ~~certificate of~~ resale **package described in NRS 116.4109** need be prepared or delivered in the case of a:

- (a) Gratuitous disposition of a unit;
- (b) Disposition pursuant to court order;
- (c) Disposition by a government or governmental agency;
- (d) Disposition by foreclosure or deed in lieu of foreclosure;
- (e) Disposition to a dealer;
- (f) Disposition that may be cancelled at any time and for any reason by the purchaser without penalty;
- (g) Disposition of a unit in a planned community which contains no more than 12 units if:

(1) The declarant reasonably believes in good faith that the maximum assessment stated in the declaration will be sufficient to pay the expenses of the planned community; and

(2) The declaration cannot be amended to increase the assessment during the period of the declarant's control without the consent of all units' owners; or

(h) Disposition of a unit restricted to nonresidential purposes.

Sec. 7.2. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095.

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner.

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152.

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent, mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent or deliver the notice of cancellation by electronic transmission to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 calendar days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d), (e) and (f) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate ~~[- The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate, which]~~ **and** must not exceed \$185, except that if a unit's owner or an authorized agent thereof requests that the certificate be furnished sooner than 3 business days after the date of the request, the association may charge a fee ~~[of up to the maximum amount established by the Commission]~~ **, which must not exceed \$100**, to expedite the preparation of the certificate. The amount of the fee may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format to the unit's owner. If the association is unable to provide such documents in electronic format, the association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 calendar days allowed by this

section, the purchaser is not liable for the delinquent assessment. A resale package provided to a unit's owner or his or her authorized agent pursuant to this section remains effective for 90 calendar days.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

7. A unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 calendar days after receipt of a written request from the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the person who requested the statement and provide a copy of the statement to any other interested party. The association may charge a fee of not more than \$165 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 business days after receipt of a written request for a statement of demand. The amount of the fees for preparing and furnishing a statement of demand and the additional fee for furnishing a statement of demand within 3 business days may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year, but must not increase by more than 3 percent each year. The statement of demand:

(a) Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner; and

(b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit, whichever is applicable.

↪ As used in this subsection, "interested party" includes the unit's owner selling the unit and the prospective purchaser of the unit.

8. ***In preparing, copying, furnishing or expediting or otherwise providing any document or other item pursuant to this section, an association, or entity related to or acting on behalf of an association, shall not charge a unit's owner, the authorized agent of a unit's owner, a***

purchaser or, pursuant to subsection 7, the holder of a security interest on a unit, any fee:

(a) ~~Not enumerated~~ authorized in this section; or

(b) In an amount which exceeds any limit set forth in this section.

9. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the person who requested the statement of demand. Unless the person who requested the statement of demand receives a replacement statement of demand, the person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit's owner.

Sec. 7.4. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act**, unless the context otherwise requires, "violation" means a violation of:

1. Any provision of this chapter except NRS 116.31184;
2. Any regulation adopted pursuant to this chapter; or
3. Any order of the Commission or a hearing panel.

Sec. 7.6. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act**, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.
- (d) Any person who is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.
- (e) Any declarant or affiliate of a declarant.
- (f) Any unit's owner.
- (g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

- (a) Currently holds his or her office, employment, agency or position or who held the office, employment, agency or position at the commencement of proceedings against him or her.

(b) Resigns his or her office, employment, agency or position:

(1) After the commencement of proceedings against him or her; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 7.8. NRS 116.755 is hereby amended to read as follows:

116.755 1. The rights, remedies and penalties provided by NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity.

2. If the Commission, a hearing panel or another agency or officer elects to take a particular action or pursue a particular remedy or penalty authorized by NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act** or another specific statute, that election is not exclusive and does not preclude the Commission, the hearing panel or another agency or officer from taking any other actions or pursuing any other remedies or penalties authorized by NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act** or another specific statute.

3. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, **and section 1.5 of this act**, the Commission or a hearing panel shall not intervene in any internal activities of an association except to the extent necessary to prevent or remedy a violation.

Sec. 8. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 or more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of

publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse;

(4) Recording a copy of the notice in the office of the county recorder;
~~and~~

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier ~~or~~ ; **and**

(6) In the case of a foreclosure sale, depositing in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

(I) Each person who, in accordance with subsection 1 of NRS 107.090, has recorded a request for a copy of a notice of default or notice of sale with respect to the mortgage or other lien being foreclosed;

(II) Each other person with an interest in the real property whose interest or claimed interest is subordinate to the mortgage or other lien being foreclosed; and

(III) An association that, pursuant to subsection 4 of NRS 107.090, has recorded a request for a copy of the deed upon a foreclosure sale.

2. If the sale of property is a residential foreclosure, the notice must include, without limitation:

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under

chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section ~~1. "residential"~~ :

(a) ***"Foreclosure sale" means the sale of real property pursuant to NRS 40.430.***

(b) “*Residential* foreclosure” means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, “single family residence” means a structure that is comprised of not more than four units.

Sec. 9. NRS 21.150 is hereby amended to read as follows:

21.150 **1.** All sales of property under execution ~~shall~~ **must** be made at auction to the highest bidder ~~and shall be made~~ between the hours of 9 a.m. and 5 p.m. **All sales of real property must be made at the courthouse of the county in which the property or some part thereof is situated.**

2. After sufficient property has been sold to satisfy the execution, ~~no~~ more ~~shall~~ **property must not** be sold. ~~Neither the~~

3. ~~The~~ officer holding the execution ~~nor~~ **and** the officer’s deputy shall **not** become a purchaser or be interested in any purchase at such sale.

4. When the sale is of personal property capable of manual delivery, it shall be in view of those who attend the sale and be sold in such parcels as are likely to bring the highest price. ~~and~~

5. *Except as otherwise provided in subsection 6*, when the sale is of real property and consisting of several known lots or parcels, they shall be sold separately, or when a portion of such real property is claimed by a third person and the third party requires it to be sold separately, such portion shall be thus sold. ~~All sales of real property shall be made at the courthouse of the county in which the property or some part thereof is situated.~~ If the land to be sold under execution consists of a single parcel, or two or more contiguous parcels, situated in two or more counties, notice of the sale must be posted and published in each of such counties, as provided in this chapter. The judgment debtor, if present at the sale, may also direct the order in which property, real or personal, shall be sold. When such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, the sheriff shall be bound to follow such directions.

6. *The provisions of subsection 5 do not apply to a sale pursuant to NRS 40.430.*

Sec. 10. NRS 39.180 is hereby amended to read as follows:

39.180 ~~If it appears to the court that it was~~

1. *To the extent necessary to ~~have made an abstract~~ grant the relief sought or other appropriate relief, the court shall upon adequate proof ascertain the state of the title to the property to be partitioned ~~and such abstract shall have been procured by~~ pursuant to a report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the plaintiff ~~or if the plaintiff shall have failed to have the same made before the commencement of the action, and any one of the defendants shall have had such abstract afterward made,~~ the defendant, and which lists the names of:*

(a) *Each owner of record of the property to be partitioned; and*

(b) *Each holder of record of a security interest in the property to be partitioned, if the security interest was created by a mortgage or a deed of trust.*

2. *The* cost of the ~~{abstract,}~~ *guarantee*, with interest thereon from the time the same is subject to the inspection of the respective parties to the action, must be allowed and taxed. ~~{Whenever such abstract is procured by the plaintiff, before the commencement of the action, the plaintiff must file with the plaintiff's complaint a notice that an abstract of the title has been made, and is subject to the inspection and use of all the parties to the action, designating therein where the abstract will be kept for inspection. But if the plaintiff shall have failed to procure such abstract before commencing the action, and any defendant shall procure the same to be made, the defendant shall, as soon as the defendant has directed it to be made, file a notice thereof in the action with the clerk of the court, stating who is making the same, and where it will be kept when finished. The court, or the judge thereof, may direct from time to time during the progress of the action, who shall have the custody of the abstract.}~~

3. *As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.*

Sec. 11. NRS 39.190 is hereby amended to read as follows:

39.190 The ~~{abstract}~~ *guarantee* mentioned in NRS 39.180 ~~{may be made by any competent searcher of records, and need not be certified by the recorder or other officer, but instead thereof it must be verified by the affidavit of the person making it, to the effect that the person believes it to be correct; but the same}~~ may be corrected from time to time if found incorrect, under the direction of the court.

Sec. 12. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, and except as otherwise provided in NRS 118C.220, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.426 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an “action” does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 *or* **104A** of NRS or by the Uniform Commercial Code as enacted in any other state, including, without limitation, an action for declaratory relief pursuant to chapter 30 of NRS to ascertain the identity of the person who is entitled to enforce an instrument pursuant to NRS 104.3309.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Pursuant to an agreement entered into pursuant to NRS 361.7311 between an owner of the property and the assignee of a tax lien against the property, or an action which is authorized by NRS 361.733.

(p) Which is exempted from the provisions of this section by specific statute.

(q) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 13. NRS 106.210 is hereby amended to read as follows:

106.210 1. Any assignment of a mortgage of real property ~~[-, or of a mortgage of personal property or crops recorded prior to March 27, 1935,]~~ and any assignment of the beneficial interest under a deed of trust must be recorded in the office of the recorder of the county in which the property is located, and from the time any of the same are so filed for record shall operate as constructive notice of the contents thereof to all persons. A mortgage of real property ~~[-, or a mortgage of personal property or crops recorded prior to March 27, 1935,]~~ which has been assigned may not be enforced unless and until the assignment is recorded pursuant to this subsection. If the beneficial interest under a deed of trust has been assigned, the trustee under the deed of trust may not exercise the power of sale pursuant to NRS 107.080 unless and until the assignment is recorded pursuant to this subsection.

2. Each such filing or recording must be properly indexed by the recorder.

Sec. 14. NRS 106.220 is hereby amended to read as follows:

106.220 1. Any instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority ~~[-, must, in case it concerns only]~~ **concerning** one or more **other** mortgages or deeds of trust of, liens upon or interests in real property ~~[-, together with, or in the alternative, one or more mortgages of, liens upon or interests in personal property or crops, the instruments or documents evidencing or creating which have been recorded prior to March 27, 1935,]~~ **must** be recorded in the office of the recorder of the county in which the property is located, and from the time any of the same are so filed for record operates as constructive notice of the contents thereof to all persons. The instrument is not enforceable **in connection with a foreclosure** under this chapter or **a trustee's sale under** chapter 107 of NRS unless and until it is recorded.

2. Each such filing or recording must be properly indexed by the recorder.

Sec. 15. NRS 107.030 is hereby amended to read as follows:

107.030 Every deed of trust made after March 29, 1927, may adopt by reference all or any of the following covenants, agreements, obligations, rights and remedies:

1. COVENANT NO. 1. That grantor agrees to pay and discharge at maturity all taxes and assessments and all other charges and encumbrances which now are or shall hereafter be, or appear to be, a lien upon the premises, or any part thereof; and that grantor will pay all interest or installments due on any prior encumbrance, and that in default thereof, beneficiary may, without demand or notice, pay the same, and beneficiary shall be sole judge of the legality or validity of such taxes, assessments, charges or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

2. COVENANT NO. 2. That the grantor will at all times keep the buildings and improvements which are now or shall hereafter be erected upon the premises insured against loss or damage by fire, to the amount of at least \$....., by some insurance company or companies approved by beneficiary, the policies for which insurance shall be made payable, in case of loss, to beneficiary, and shall be delivered to and held by the beneficiary as further security; and that in default thereof, beneficiary may procure such insurance, not exceeding the amount aforesaid, to be effected either upon the interest of trustee or upon the interest of grantor, or his or her assigns, and in their names, loss, if any, being made payable to beneficiary, and may pay and expend for premiums for such insurance such sums of money as the beneficiary may deem necessary.

3. COVENANT NO. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the premises, or any part thereof, or the title thereto, or if any adverse claim for or against the premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.

4. COVENANT NO. 4. That the grantor will pay to trustee and to beneficiary respectively, on demand, the amounts of all sums of money which they shall respectively pay or expend pursuant to the provisions of the implied covenants of this section, or any of them, together with interest upon each of the amounts, until paid, from the time of payment thereof, at the rate of percent per annum.

5. COVENANT NO. 5. That in case grantor shall well and truly perform the obligation or pay or cause to be paid at maturity the debt or promissory note, and all moneys agreed to be paid, and interest thereon for the security of which the transfer is made, and also the reasonable expenses of the trust in this section specified, then the trustee, its successors or assigns, shall reconvey to the grantor all the estate in the premises conveyed to the trustee by the grantor. Any part of the trust property may be reconveyed at the request of the beneficiary.

6. COVENANT NO. 6. That if default be made in the performance of the obligation, or in the payment of the debt, or interest thereon, or any part

thereof, or in the payment of any of the other moneys agreed to be paid, or of any interest thereon, or if any of the conditions or covenants in this section adopted by reference be violated, and if the notice of breach and election to sell, required by this chapter, be first recorded, then trustee, its successors or assigns, on demand by beneficiary, or assigns, shall sell the above-granted premises, or such part thereof as in its discretion it shall find necessary to sell, in order to accomplish the objects of these trusts, in the manner following, namely:

The ~~trustees~~ *trustee* shall first give notice of the time and place of such sale, in the manner provided in NRS 107.080 and may postpone such sale not more than three times by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the trustee may sell the property so advertised, or any portion thereof, at public auction, at the time and place specified in the notice, at a public location in the county in which the property, or any part thereof, to be sold, is situated, to the highest cash bidder. The beneficiary, obligee, creditor, or the holder or holders of the promissory note or notes secured thereby may bid and purchase at such sale. The beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to the beneficiary's former position and have and enjoy the same rights as though such notice had not been recorded.

7. COVENANT NO. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the grantor in the premises, and shall apply the proceeds of the sale thereof in payment, firstly, of the expenses of such sale, together with the reasonable expenses of the trust, including counsel fees, in an amount equal to percent of the amount secured thereby and remaining unpaid or reasonable counsel fees and costs actually incurred, which shall become due upon any default made by grantor in any of the payments aforesaid; and also such sums, if any, as trustee or beneficiary shall have paid, for procuring a search of the title to the premises, or any part thereof, subsequent to the execution of the deed of trust; and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon herein agreed or provided to be paid by grantor; and the balance or surplus of such proceeds of sale it shall pay to grantor, his or her heirs, executors, administrators or assigns.

8. COVENANT NO. 8. That in the event of a sale of the premises, or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording notice of breach and election of sale, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by beneficiary, his or her heirs or assigns, that such sale should be made, shall be conclusive proof of such default, recording, election,

elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by beneficiary, his or her heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against grantor, his or her heirs and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

9. COVENANT NO. 9. That the beneficiary or his or her assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by the deed of trust. An instrument executed and acknowledged by the beneficiary is conclusive proof of the proper appointment of such substituted trustee. Upon the recording of such executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the beneficiary, and all of the trustee's acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

Sec. 16. NRS 108.2405 is hereby amended to read as follows:

108.2405 1. The provisions of NRS 108.2403 and 108.2407 do not apply:

(a) In a county with a population of 700,000 or more with respect to a ground lessee who enters into a ground lease for real property which is designated for use or development by the county for commercial purposes which are compatible with the operation of the international airport for the county.

(b) If all owners of the property, individually or collectively, record a written notice of waiver of the owners' rights set forth in NRS 108.234 with the county recorder of the county where the property is located before the commencement of construction of the work of improvement. Such a written notice of waiver may be with respect to one or more works of improvement as described in the written notice of waiver.

2. Each owner who records a notice of waiver pursuant to paragraph (b) of subsection 1 must serve such notice by certified mail, return receipt requested, upon any prime contractor of the work of improvement and all other lien claimants who give the owner a notice of right to lien pursuant to NRS 108.245, within 10 days after the owner's receipt of a notice of right to lien or 10 days after the date on which the notice of waiver is recorded pursuant to this subsection ~~1~~, *whichever is later*.

3. As used in this section:

(a) "Ground lease" means a written agreement:

(1) To lease real property which, on the date on which the agreement is signed, does not include any existing buildings or improvements that may be occupied on the land; and

(2) That is entered into for a period of not less than 10 years, excluding any options to renew that may be included in any such lease.

(b) “Ground lessee” means a person who enters into a ground lease as a lessee with the county as record owner of the real property as the lessor.

Sec. 17. 1. This section ~~becomes~~ **and section 7.2 of this act become** effective upon passage and approval.

2. Sections 1, 1.5 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of sections 1, 1.5 and 3; and

(b) On January 1, 2022, for all other purposes.

3. Sections 2 ~~and 4~~ **to 7, inclusive, and 7.4** to 16, inclusive, of this act become effective on January 1, 2022.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 658 to Assembly Bill No. 237.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 286.

The following Senate amendment was read:

Amendment No. 543.

ASSEMBLYWOMAN JAUREGUI

JOINT SPONSOR: SENATOR SCHEIBLE

AN ACT relating to crimes; prohibiting a person from engaging in certain acts relating to unfinished frames or receivers under certain circumstances; prohibiting a person from engaging in certain acts relating to firearms which are not imprinted with a serial number under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes various unlawful acts relating to firearms. (Chapter 202 of NRS) **Sections 3-5** of this bill create additional unlawful acts relating to firearms.

Section 3 of this bill prohibits a person from possessing, purchasing, transporting or receiving an unfinished frame or receiver unless: (1) the person is a firearms importer or manufacturer; or (2) the unfinished frame or receiver is required to be, and has been, imprinted with a serial number. **Section 3** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Similarly, **section 3.5** of this bill prohibits a person from selling, offering to sell or transferring an unfinished frame or receiver unless: (1) the person is a

firearms importer or manufacturer and the recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or (2) the unfinished frame or receiver is required to be, and has been, imprinted with a serial number. **Section 3.5** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Section 4 of this bill prohibits a person from manufacturing or causing to be manufactured or assembling or causing to be assembled a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm is: (1) rendered permanently inoperable; (2) an antique; or (3) a collector's item, curio or relic. **Section 4** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony.

Similarly, **section 5** of this bill prohibits a person from possessing, selling, offering to sell, transferring, purchasing, transporting or receiving a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless: (1) the person is a law enforcement agency or a firearms importer or manufacturer; or (2) the firearm is rendered permanently inoperable, **was manufactured before 1969** or is an antique, collector's item, curio or relic. **Section 5** provides that a person who commits such an unlawful act: (1) for the first offense, is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense, is guilty of a category D felony. **Section 5.5 of this bill provides that nothing in sections 3-5 shall be deemed to prohibit the sale of an unfinished frame or receiver or firearm that is not imprinted with a serial number to a firearms importer or manufacturer or a licensed dealer before January 1, 2022.**

Section 6 of this bill defines the terms "antique firearm," "firearms importer or manufacturer" and "unfinished frame or receiver." **Section 7** of this bill makes a conforming change relating to the new definitions.

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. *A person shall not possess, purchase, transport or receive an unfinished frame or receiver unless:*

(a) The person is a firearms importer or manufacturer; or

(b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by a firearms importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 3.5. 1. *A person shall not sell, offer to sell or transfer an unfinished frame or receiver unless:*

(a) *The person is:*

(1) *A firearms importer or manufacturer; and*

(2) *The recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or*

(b) *The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.*

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 4. 1. *A person shall not manufacture or cause to be manufactured or assemble or cause to be assembled a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless the firearm:*

(a) *Has been rendered permanently inoperable;*

(b) *Is an antique firearm; or*

(c) *Has been determined to be a collector's item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.*

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section:*

(a) *"Assemble" means to fit together component parts.*

(b) *"Manufacture" means to fabricate, make, form, produce or construct by manual labor or machinery.*

Sec. 5. 1. *A person shall not possess, sell, offer to sell, transfer, purchase, transport or receive a firearm that is not imprinted with a serial number issued by a firearms importer or manufacturer in accordance with federal law and any regulations adopted thereunder unless:*

(a) *The person is:*

(1) *A law enforcement agency; or*

(2) *A firearms importer or manufacturer; or*

(b) *The firearm:*

(1) *Has been rendered permanently inoperable;*

(2) *Was manufactured before 1969;*

(3) Is an antique firearm; or

~~{3}~~ (4) *Has been determined to be a collector's item pursuant to 26 U.S.C. Chapter 53 or a curio or relic pursuant to 18 U.S.C. Chapter 44.*

2. *A person who violates this section:*

(a) *For the first offense, is guilty of a gross misdemeanor; and*

(b) *For the second or any subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.*

Sec. 5.5. Nothing in the provisions of sections 3 to 5, inclusive, of this act shall be deemed to prohibit the sale of an unfinished frame or receiver or firearm that is not imprinted with a serial number to a firearms importer or manufacturer or a licensed dealer before January 1, 2022. As used in this section, "licensed dealer" has the meaning ascribed to it in NRS 202.2546.

Sec. 6. NRS 202.253 is hereby amended to read as follows:

202.253 As used in NRS 202.253 to 202.369, inclusive ~~{1}~~, *and sections 2 to ~~{5}~~ 5.5, inclusive, of this act:*

1. *"Antique firearm" has the meaning ascribed to it in 18 U.S.C. § 921(a)(16).*

2. *"Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.*

~~{2}~~ 3. *"Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.*

~~{3}~~ 4. *"Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.*

~~{4}~~ 5. *"Firearms importer or manufacturer" means a person licensed to import or manufacture firearms pursuant to 18 U.S.C. Chapter 44.*

6. *"Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.*

~~{5}~~ 7. *"Motor vehicle" means every vehicle that is self-propelled.*

~~{6}~~ 8. *"Semiautomatic firearm" means any firearm that:*

(a) *Uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next shell or round;*

(b) *Requires a separate function of the trigger to fire each cartridge; and*

(c) *Is not a machine gun.*

9. *"Unfinished frame or receiver" means a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.*

Sec. 7. NRS 202.2548 is hereby amended to read as follows:

202.2548 The provisions of NRS 202.2547 do not apply to:

1. The sale or transfer of a firearm by or to any law enforcement agency and, to the extent he or she is acting within the course and scope of his or her employment and official duties, any peace officer, security guard entitled to carry a firearm under NAC 648.345, member of the armed forces or federal official.

2. The sale or transfer of an antique firearm . ~~as defined in 18 U.S.C. § 921(a)(16).~~

3. The sale or transfer of a firearm between immediate family members, which for the purposes of this section means spouses and domestic partners and any of the following relations, whether by whole or half blood, adoption, or step-relation: parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces and nephews.

4. The transfer of a firearm to an executor, administrator, trustee or personal representative of an estate or a trust that occurs by operation of law upon the death of the former owner of the firearm.

5. A temporary transfer of a firearm to a person who is not prohibited from buying or possessing firearms under state or federal law if such transfer:

(a) Is necessary to prevent imminent death or great bodily harm; and

(b) Lasts only as long as immediately necessary to prevent such imminent death or great bodily harm.

6. A temporary transfer of a firearm if:

(a) The transferor has no reason to believe that the transferee is prohibited from buying or possessing firearms under state or federal law;

(b) The transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime; and

(c) Such transfer occurs and the transferee's possession of the firearm following the transfer is exclusively:

(1) At an established shooting range authorized by the governing body of the jurisdiction in which such range is located;

(2) At a lawful organized competition involving the use of a firearm;

(3) While participating in or practicing for a performance by an organized group that uses firearms as a part of the public performance;

(4) While hunting or trapping if the hunting or trapping is legal in all places where the transferee possesses the firearm and the transferee holds all licenses or permits required for such hunting or trapping; or

(5) While in the presence of the transferor.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. This section and sections 1 ~~to~~ , 2, 3.5, 4 ~~inclusive~~ , 5.5 and 6 to 9, inclusive, of this act become effective upon passage and approval.

2. ~~Section~~ **Sections 3 and 5** of this act ~~becomes~~ **become** effective on January 1, 2022.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 543 to Assembly Bill No. 286.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 394.

The following Senate amendment was read:

Amendment No. 662.

AN ACT relating to civil actions; providing that behavioral health specialists performing mobile crisis intervention services are immune from civil liability under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides certain persons with immunity from civil liability for certain acts or omissions under certain circumstances. (Chapter 41 of NRS) This bill provides that a behavioral health specialist performing mobile crisis intervention services by telephone or audio-video communication, whether for compensation or gratuitously, is immune from any civil liability in the performance of mobile crisis intervention services if: (1) the acts or omissions of the person are in good faith; and (2) the acts or omissions of the person do not constitute gross negligence or willful, wanton or intentional misconduct.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A behavioral health specialist performing mobile crisis intervention services by telephone or audio-video communication, whether for compensation or gratuitously, is immune from any civil liability in the performance of mobile crisis intervention services if:

- (a) The acts or omissions of the person are in good faith; and*
- (b) The acts or omissions of the person do not constitute gross negligence or willful, wanton or intentional misconduct.*

2. As used in this section:

(a) "Audio-video communication" means communication by which a person is able to see, hear and communicate with another person in real time using electronic means.

(b) "Behavioral health specialist" means a ~~physician~~ psychiatrist who is ~~certified by the Board of Medical Examiners,~~ licensed pursuant to chapter 630 or 633 of NRS, a psychologist, a physician assistant or an advanced practice registered nurse who is certified to practice as a behavioral health specialist, or a person who is licensed as a clinical social worker, clinical professional counselor or marriage and family therapist.

(c) *“Mobile crisis intervention services” means services provided under the direction of a peace officer while engaging in an emergency response to assist a person who is experiencing a behavioral health crisis by:*

- (1) Stabilizing, de-escalating or resolving the crisis;*
- (2) Screening or assessing the person for safety; or*
- (3) Creating a safety plan.*

(d) *“Peace officer” means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.*

Sec. 2. The provisions of this act apply to a cause of action that accrues on or after July 1, 2021.

Sec. 3. This act becomes effective on July 1, 2021.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 662 to Assembly Bill No. 394.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 400.

The following Senate amendment was read:

Amendment No. 722.

SUMMARY—Revises provisions relating to prohibited acts concerning the use of marijuana ~~and~~ **and certain other controlled substances.** (BDR 43-485)

AN ACT relating to public safety; revising provisions relating to prohibited acts concerning the use of marijuana ~~and~~ **and certain other controlled substances; establishing provisions relating to administrative suspensions of commercial drivers’ licenses, permits and driving privileges; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person from driving or being in actual physical control of a vehicle ~~for commercial motor vehicle~~ on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State if the person: (1) is under the influence of intoxicating liquor or a controlled substance; (2) has specified amounts of certain prohibited substances in his or her blood or urine; or (3) has specified amounts of marijuana or marijuana metabolite in his or her blood. (NRS 484C.110, ~~484C.120,~~ 488.410) ~~Sections 1, 2~~ **For the purposes of any such offense punishable as a misdemeanor, sections 1.7 and 6** of this bill remove the prohibition against such a person having specified amounts of marijuana or marijuana metabolite in his or her blood, thereby providing that a person who uses marijuana is subject to the general prohibition against driving or being in actual physical control of a vehicle ~~for commercial motor vehicle~~ on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State if the person is under the influence of a controlled

substance. ~~[Sections 3.5 and 7.16 of this bill make conforming changes to remove references in the Nevada Revised Statutes to marijuana or marijuana metabolite in a person's blood.]~~

~~Existing law prohibits a child who is taken into custody or a person who is arrested for violating a temporary or extended order for protection against domestic violence, stalking, aggravated stalking, harassment or sexual assault from being released from custody or admitted to bail, as applicable, sooner than 12 hours after being taken into custody or arrested in certain circumstances, including if the child or person has, at the time of or within 2 hours after the violation, an amount of marijuana or marijuana metabolite in his or her system that is equal to or greater than the amount that prohibits a person from driving or being in actual physical control of a vehicle on a highway or on premises to which the public has access. (NRS 62C.020, 478.484) Under the conforming changes made in sections 11 and 14 of this bill, respectively, a child who is taken into custody or a person who is arrested for violating any such order for protection and is under the influence of marijuana is no longer subject to such a prohibition.]~~ **Thus, sections 1.7 and 6 provide that the specified amounts of marijuana or marijuana metabolite apply to those circumstances where the violation is punishable as a felony.**

Existing law provides that in certain circumstances compensation is not payable to employees in this State for an injury that occurred while an employee was under the influence of a controlled or prohibited substance unless the employee can prove that being under the influence of a controlled or prohibited substance was not the proximate cause of the injury. Existing law specifies that an employee is under the influence of a controlled or prohibited substance for the purpose of such a provision when the employee has an amount of certain prohibited substances, including marijuana or marijuana metabolite, in his or her system that is equal to or greater than the amount that prohibits a person from driving or being in actual physical control of a vehicle on a highway or on premises to which the public has access and for which the employee does not have a current and lawful prescription. (NRS 616C.230) **Section 17** of this bill retains the amounts of such prohibited substances that are currently set forth in existing law for the purpose of determining whether an employee is under the influence of a prohibited substance, but removes the specified amount of marijuana metabolite.

Existing law also prohibits a person from driving or being in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access if the person: (1) is under the influence of intoxicating liquor or a controlled substance; (2) has specified amounts of certain prohibited substances in his or her blood or urine; or (3) has specified amounts of marijuana or marijuana metabolite in his or her blood. (NRS 484C.120) Section 2 of this bill prohibits a person from driving or being in control of a commercial motor vehicle if there is any

prohibited substance, as defined by 21 C.F.R. 1308.11, including, without limitation, marijuana, in the blood or urine of the person.

Existing law provides that if certain tests show that a person less than 21 years of age had a concentration of alcohol of 0.02 or more but less than 0.08 in his or her blood or breath at the time of the test, the person's driver's license, permit or privilege to drive must be suspended for 90 days. (NRS 483.461) Section 1 of this bill establishes similar provisions relating to commercial motor vehicles. Specifically, section 1 provides that if certain tests show that a person 18 years of age or older had a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath at the time of the test, or the person had any detectable amount of a schedule I controlled substance in his or her blood or urine at the time of the test, the person's commercial driver's license, commercial learner's permit or privilege to drive a commercial motor vehicle must be suspended for 1 year. Sections 1.1-1.3 and 17.5 of this bill make conforming changes relating to such suspensions.

Existing law prohibits a person from driving a commercial motor vehicle at any time when the driving privilege of the person is subject to disqualification and directs the Department of Motor Vehicles, upon receipt of notice of a disqualification, to: (1) suspend the privilege of the person to drive a commercial motor vehicle; and (2) charge the person a civil penalty. (NRS 483.924, 483.939) Sections 1.4 and 1.5 of this bill expressly provide that the disqualifying conduct includes disqualifications described by certain federal regulations.

Existing federal regulations prohibit an employer from allowing, requiring, permitting or authorizing a driver to operate a commercial motor vehicle if the employer should have reasonably known that certain circumstances exist, including, a violation of an out-of-service order. (49 C.F.R. § 383.37) Existing state law authorizes the Department to impose a civil penalty against an employer who should have reasonably known that there was a violation of an out-of-service declaration. (NRS 483.939) Section 1.6 expands the circumstances under which the Department may impose the civil penalty on the employer to all the circumstances described in the federal regulation. Section 2 authorizes the imposition of the civil penalty described in section 1.6 on a person who commits certain unlawful acts relating to driving or being in actual physical control of a commercial motor vehicle on a highway or on a premises to which the public has access.

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

Section 1. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the result of a test given pursuant to NRS 484C.150 or 484C.160 shows that a person 18 years of age or older had a concentration of alcohol

of 0.04 or more but less than 0.08 in his or her blood or breath or any detectable amount of a substance described in 21 C.F.R. 1308.11 in his or her blood or urine at the time of the test, the person's commercial driver's license, commercial learner's permit or privilege to drive a commercial motor vehicle must be suspended for a period of 1 year.

2. This section does not preclude:

(a) The prosecution of a person for a violation of any other provision of law; or

(b) The suspension or revocation of a person's commercial driver's license, commercial learner's permit or privilege to drive a commercial motor vehicle pursuant to any other provision of law.

Sec. 1.1. NRS 483.461 is hereby amended to read as follows:

483.461 1. If the result of a test given pursuant to NRS 484C.150 or 484C.160 shows that a person less than 21 years of age had a concentration of alcohol of 0.02 or more but less than 0.08 in his or her blood or breath at the time of the test, the person's license, permit or privilege to drive must be suspended for a period of 90 days.

2. If a revocation or suspension of a person's license, permit or privilege to drive for a violation of NRS 62E.640, ~~484C.110,~~ 484C.120, 484C.130 or 484C.430 follows a suspension ordered pursuant to subsection 1, the Department shall:

(a) Cancel the suspension ordered pursuant to subsection 1; and

(b) Give the person credit toward the period of revocation or suspension ordered pursuant to NRS 62E.640, ~~484C.110,~~ 484C.120, 484C.130 or 484C.430, whichever is applicable, for any period during which the person's license, permit or privilege to drive was suspended pursuant to subsection 1.

3. This section does not preclude:

(a) The prosecution of a person for a violation of any other provision of law; or

(b) The suspension or revocation of a person's license, permit or privilege to drive pursuant to any other provision of law.

Sec. 1.2. NRS 483.900 is hereby amended to read as follows:

483.900 The purposes of NRS 483.900 to 483.940, inclusive, and section 1 of this act are to implement the Commercial Motor Vehicle Safety Act of 1986, as amended, 49 U.S.C. chapter 313 (§§ 31301 et seq.), and reduce or prevent commercial motor vehicle crashes, fatalities and injuries by:

1. Permitting drivers of commercial motor vehicles to hold only one license;

2. Providing for the disqualification of drivers of commercial motor vehicles who have committed certain serious traffic violations or other specified offenses;

3. Strengthening the licensing and testing standards for drivers of commercial motor vehicles; and

4. Ensuring that drivers of commercial motor vehicles carrying hazardous materials are qualified to operate a commercial motor vehicle in accordance

with all regulations pertaining to the transportation of hazardous materials and have the skills and knowledge necessary to respond appropriately to any emergency arising out of the transportation of hazardous materials.

Sec. 1.3. NRS 483.902 is hereby amended to read as follows:

483.902 The provisions of NRS 483.900 to 483.940, inclusive, and section 1 of this act apply only with respect to commercial drivers' licenses.

Sec. 1.4. NRS 483.904 is hereby amended to read as follows:

483.904 As used in NRS 483.900 to 483.940, inclusive, and section 1 of this act, unless the context otherwise requires:

1. "Commercial driver's license" means a license issued to a person which authorizes the person to drive a class or type of commercial motor vehicle.

2. "Commercial Driver's License Information System" means the information system maintained by the Secretary of Transportation pursuant to 49 U.S.C. § 31309 to serve as a clearinghouse for locating information relating to the licensing, identification and disqualification of operators of commercial motor vehicles.

~~3. "Out of service order" means a temporary prohibition against:~~

~~(a) A person operating a commercial motor vehicle as such a prohibition is described in 49 C.F.R. § 395.13; or~~

~~(b) The operation of a commercial motor vehicle as such a prohibition is described in 49 C.F.R. § 396.9(e).~~

Sec. 1.5. NRS 483.924 is hereby amended to read as follows:

483.924 A person shall not drive a commercial motor vehicle on the highways of this State:

1. Unless the person has been issued and has in his or her immediate possession a:

(a) Commercial driver's license with applicable endorsements valid for the vehicle the person is driving issued by this State or by any other jurisdiction in accordance with the minimum federal standards for the issuance of a commercial driver's license; or

(b) Valid learner's permit for the operation of a commercial motor vehicle and is accompanied by the holder of a commercial driver's license valid for the vehicle being driven.

2. At any time while the person's driving privilege is suspended, revoked or cancelled, or while subject to a disqualification, including, without limitation, a disqualification for ~~violating an out of service order that is imposed pursuant to~~ any conduct described in 49 C.F.R. § ~~383.51(e).~~ 383.51.

Sec. 1.6. NRS 483.939 is hereby amended to read as follows:

483.939 1. If the Department receives notice that a person who holds a commercial driver's license has been convicted of driving a commercial motor vehicle in violation of ~~an out of service declaration, as~~ the prohibitions described in 49 C.F.R. § 395.13, the Department shall:

(a) Suspend the privilege of the person to operate a commercial motor vehicle for the period set forth in 49 C.F.R. § ~~383.51(e).~~ 383.51; and

(b) In addition to any other applicable fees and penalties that must be paid to reinstate the commercial driver's license after suspension, impose against the person a civil penalty in the amount set forth in 49 C.F.R. § 383.53(b)(1).

2. If the Department receives notice that the employer of a person who holds a commercial driver's license has been convicted of a violation of 49 C.F.R. § ~~383.37(c)~~ **383.37** for knowingly allowing, requiring, permitting or authorizing the person to operate a commercial motor vehicle during any period in which the person or the commercial motor vehicle is subject to ~~an out-of-service order,~~ ***the circumstances described in 49 C.F.R. § 383.37,*** the Department shall impose against the employer a civil penalty in the amount set forth in 49 C.F.R. § ~~383.53(b)(2)~~ **383.53.**

3. All money collected by the Department pursuant to paragraph (b) of subsection 1 or subsection 2 must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

4. The Department shall adopt regulations to carry out the provisions of this section.

~~Section 1.~~ **Sec. 1.7.** NRS 484C.110 is hereby amended to read as follows:

484C.110 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or
- (c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath,
↪ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

- (a) Is under the influence of a controlled substance;
- (b) Is under the combined influence of intoxicating liquor and a controlled substance; or
- (c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle,

↪ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine Nanograms per milliliter	Blood Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Methamphetamine	500	100
(h) Phencyclidine	25	10

4. ~~HH~~ For any violation that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484C.400, it is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:

	Blood Nanograms
<u>Prohibited substance per milliliter</u>	
(a) Marijuana (delta-9-tetrahydrocannabinol)	<u>2</u>
(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)	<u>5</u>

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. ~~5.4~~ A person who violates any provision of this section may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.

Sec. 2. NRS 484C.120 is hereby amended to read as follows:

484C.120 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath; or
- (c) Is found by measurement within 2 hours after driving or being in actual physical control of a commercial motor vehicle to have a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath,

↪ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a commercial motor vehicle,

↪ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access with ~~in an amount of~~ any ~~of the following~~ prohibited ~~substances~~ substance in his or her blood or urine, ~~that is equal to or greater than:~~

	Urine	Blood
	Nanograms	Nanograms
Prohibited substance	per milliliter	per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6 monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Methamphetamine	500	100
(h) Phenylelidine	25	10

As used in this subsection, “prohibited substance” means any substance described in 21 C.F.R. 1308.11.

4. ~~It is unlawful for any person to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:~~

	Blood
	Nanograms
Prohibited substance	per milliliter
(a) Marijuana (delta-9-tetrahydrocannabinol)	2

~~—(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)—————5~~

~~—5.1~~ If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the commercial motor vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.04 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

~~16.1~~ 5. A person who violates any provision of this section may be subject to any additional penalty set forth in NRS ~~483.939~~, 484B.130 or 484B.135.

~~17.1~~ 6. As used in this section:

(a) “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(2) Has a gross vehicle weight rating of 26,001 or more pounds;

(3) Is designed to transport 16 or more passengers, including the driver;

or

(4) Regardless of size, is used in the transportation of materials which are considered to be hazardous for the purposes of the federal Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and for which the display of identifying placards is required pursuant to 49 C.F.R. Part 172, Subpart F.

(b) The phrase “concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath” means 0.04 gram or more but less than 0.08 gram of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

Sec. 3. ~~NRS 484C.130 is hereby amended to read as follows:~~

~~484C.130 1. A person commits vehicular homicide if the person:~~

~~—(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:~~

~~—(1) Is under the influence of intoxicating liquor;~~

~~—(2) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~

~~—(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree~~

~~which renders the person incapable of safely driving or exercising actual physical control of a vehicle; or~~

~~—(6) Has a prohibited substance in his or her blood or urine, as applicable, in an amount that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110; (b) Proximately causes the death of another person while driving or in actual physical control of a vehicle on or off the highways of this State; and~~

~~—(c) Has previously been convicted of at least three offenses.~~

~~—2. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~—3. As used in this section, “offense” means:~~

~~—(a) A violation of NRS 484C.110, 484C.120 or 484C.430;~~

~~—(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 484C.110 or 484C.430; or~~

~~—(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).] (Deleted by amendment.)~~

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~NRS 484C.430 is hereby amended to read as follows:~~

~~484C.430 1. Unless a greater penalty is provided pursuant to NRS 484C.440, a person who:~~

~~—(a) Is under the influence of intoxicating liquor;~~

~~—(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~

~~—(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle; or~~

~~—(f) Has a prohibited substance in his or her blood or urine, as applicable, in an amount that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110;~~

~~and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.~~

~~2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.~~

~~3. Except as otherwise provided in subsection 4, if consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~4. If the defendant is also charged with violating the provisions of NRS 484E.010, 484E.020 or 484E.030, the defendant may not offer the affirmative defense set forth in subsection 3.~~

~~5. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.]~~

(Deleted by amendment.)

Sec. 6. NRS 488.410 is hereby amended to read as follows:

488.410 1. It is unlawful for any person who:

- (a) Is under the influence of intoxicating liquor;
 - (b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or
 - (c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel to have a concentration of alcohol of 0.08 or more in his or her blood or breath,
- ➔ to operate or be in actual physical control of a vessel under power or sail on the waters of this State.

2. It is unlawful for any person who:

- (a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under power or sail,

→ to operate or be in actual physical control of a vessel under power or sail on the waters of this State.

3. It is unlawful for any person to operate or be in actual physical control of a vessel under power or sail on the waters of this State with an amount of any of the following prohibited substances in his or her blood or urine that is equal to or greater than:

Urine	Blood	
Nanograms per	Nanograms per	
Prohibited substance	milliliter	milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Methamphetamine	500	100
(h) Phencyclidine	25	10

4. ~~HH~~ For any violation that is punishable pursuant to NRS 488.427, it is unlawful for any person to operate or be in actual physical control of a vessel under power or sail on the waters of this State with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:

	Blood
	Nanograms per
Prohibited substance	milliliter
(a) Marijuana (delta-9-tetrahydrocannabinol)	2
(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)	5

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood was tested, to cause the defendant to have a concentration of 0.08 or more of alcohol in his or her blood or breath. A defendant who intends to offer this defense at a trial or

preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

~~6. ~~5.1~~~~ Except as otherwise provided in NRS 488.427, a person who violates the provisions of this section is guilty of a misdemeanor.

~~Sec. 7. NRS 488.420 is hereby amended to read as follows:~~

~~488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:~~

~~—(a) Is under the influence of intoxicating liquor;~~

~~—(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~—(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~

~~—(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or being in actual physical control of a vessel under power or sail; or~~

~~—(f) Has a prohibited substance in his or her blood or urine, as applicable, in an amount that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 488.410;~~

~~— and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.~~

~~2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.~~

~~3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his or her blood was tested, to cause the defendant to have a concentration of alcohol of 0.08~~

~~or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.~~ (Deleted by amendment.)

Sec. 8. ~~NRS 488.425 is hereby amended to read as follows:~~

~~488.425 1. A person commits homicide by vessel if the person:~~

~~(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:~~

~~(1) Is under the influence of intoxicating liquor;~~

~~(2) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his or her blood or breath;~~

~~(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;~~

~~(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under power or sail; or~~

~~(6) Has a prohibited substance in his or her blood or urine, as applicable, in an amount that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 488.410;~~

~~(b) Proximately causes the death of another person while operating or in actual physical control of a vessel under power or sail; and~~

~~(c) Has previously been convicted of at least three offenses.~~

~~2. A person who commits homicide by vessel 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.~~

~~3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.~~

~~4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.~~

~~5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.~~

~~6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.~~

~~7. As used in this section, "offense" means:~~

~~(a) A violation of NRS 488.410 or 488.420;~~

~~(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or~~

~~(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).] (Deleted by amendment.)~~

Sec. 9. (Deleted by amendment.)

Sec. 10. [NRS 33.030 is hereby amended to read as follows:

~~33.030 1. The court by a temporary order may:~~

~~(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;~~

~~(b) Exclude the adverse party from the applicant's place of residence;~~

~~(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order the adverse party to stay away from any specified place frequented regularly by them;~~

~~(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant;~~

~~(e) Enjoin the adverse party from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the applicant or minor child, either directly or through an agent;~~

~~(f) Enjoin the adverse party from physically injuring or threatening to injure any animal that is owned or kept by the adverse party, either directly or through an agent; and~~

~~(g) Order such other relief as it deems necessary in an emergency situation.~~

~~2. The court by an extended order may grant any relief enumerated in subsection 1 and:~~

~~(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;~~

~~(b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and~~

~~(c) Order the adverse party to:~~

~~— (1) Avoid or limit communication with the applicant or minor child;~~

~~— (2) Pay rent or make payments on a mortgage on the applicant's place of residence;~~

~~— (3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159A of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if the adverse party is found to have a duty to support the applicant or minor child;~~

~~— (4) Pay all costs and fees incurred by the applicant in bringing the action; and~~

~~— (5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.~~

~~— 3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.~~

~~— 4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.~~

~~— 5. A temporary or extended order must provide notice that:~~

~~— (a) Responding to a communication initiated by the applicant may constitute a violation of the protective order; and~~

~~— (b) A person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:~~

~~— (1) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (2) The person has previously violated a temporary or extended order for protection; or~~

~~— (3) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (I) A concentration of alcohol of 0.08 or more in the person's blood or breath; or~~

~~— (II) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110.] (Deleted by amendment.)~~

Sec. 11. [NRS 62C.020 is hereby amended to read as follows:

~~— 62C.020 1. A child must not be released from custody sooner than 12 hours after the child is taken into custody if the child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018, unless the peace officer or probation officer who has taken the child into custody determines that the child does not otherwise meet the criteria for secure detention and:~~

~~—(a) Respite care or another out of home alternative to secure detention is available for the child;~~

~~—(b) An out of home alternative to secure detention is not necessary to protect the victim from injury; or~~

~~—(c) Family services are available to maintain the child in the home and the parents or guardians of the child agree to receive those family services and to allow the child to return to the home.~~

~~—2. A child must not be released from custody sooner than 12 hours after the child is taken into custody if the child is taken into custody for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating 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, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or for violating a temporary or extended order for protection against sexual assault issued pursuant to NRS 200.378 and:~~

~~—(a) The peace officer or probation officer who has taken the child into custody determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~—(b) The child has previously violated a temporary or extended order for protection of the type for which the child has been taken into custody; or~~

~~—(c) At the time of the violation or within 2 hours after the violation, the child has:~~

~~—(1) A concentration of alcohol of 0.08 or more in his or her blood or breath; or~~

~~—(2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110.~~

~~—3. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.] (Deleted by amendment.)~~

Sec. 12. [NRS 125.555 is hereby amended to read as follows:

~~125.555 1. A restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence which is issued in an action or proceeding brought pursuant to this title must provide notice that a person who is arrested for violating the order or injunction will not be admitted to bail sooner than 12 hours after the person's arrest if:~~

~~—(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~—(b) The person has previously violated a temporary or extended order for protection; or~~

~~—(c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in his or her blood or breath; or~~

~~— (2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110.~~

~~— 2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 171.1225 is hereby amended to read as follows:~~

~~— 171.1225 1. When investigating an act of domestic violence, a peace officer shall:~~

~~— (a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.~~

~~— (b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:~~

~~— (1) My name is Officer (naming the investigating officer). Nevada law requires me to inform you of the following information.~~

~~— (2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last 24 hours by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the battery.~~

~~— (3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.~~

~~— (4) The law provides that you may seek a court order for the protection of you, your minor children or any animal that is owned or kept by you, by the person who committed or threatened the act of domestic violence or by the minor child of either such person against further threats or acts of domestic violence. You do not need to hire a lawyer to obtain such an order for protection.~~

~~— (5) An order for protection may require the person who committed or threatened the act of domestic violence against you to:~~

~~— (I) Stop threatening, harassing or injuring you or your children;~~

~~— (II) Move out of your residence;~~

~~— (III) Stay away from your place of employment;~~

~~— (IV) Stay away from the school attended by your children;~~

~~— (V) Stay away from any place you or your children regularly go;~~

~~—— (VI) Avoid or limit all communication with you or your children;~~

~~—— (VII) Stop physically injuring, threatening to injure or taking possession of any animal that is owned or kept by you or your children, either directly or through an agent; and~~

~~—— (VIII) Stop physically injuring or threatening to injure any animal that is owned or kept by the person who committed or threatened the act or his or her children, either directly or through an agent.~~

~~—— (6) A court may make future orders for protection which award you custody of your children and require the person who committed or threatened the act of domestic violence against you to:~~

~~—— (I) Pay the rent or mortgage due on the place in which you live;~~

~~—— (II) Pay the amount of money necessary for the support of your children;~~

~~—— (III) Pay part or all of the costs incurred by you in obtaining the order for protection; and~~

~~—— (IV) Comply with the arrangements specified for the possession and care of any animal owned or kept by you or your children or by the person who committed or threatened the act or his or her children.~~

~~—— (7) To get an order for protection, go to room number (state the room number of the office at the court) at the court, which is located at (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.~~

~~—— (8) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, the person may be arrested and, if:~~

~~—— (I) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~—— (II) The person has previously violated a temporary or extended order for protection; or~~

~~—— (III) At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in the person's blood or breath or an amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110;~~

~~— the person will not be admitted to bail sooner than 12 hours after arrest.~~

~~—— (9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at (state toll free telephone number of Statewide Program).~~

~~— 2. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or the officer's employer.~~

~~2. As used in this section:~~

~~(a) “Act of domestic violence” means any of the following acts committed by a person against his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons or his or her minor child:~~

~~(1) A battery.~~

~~(2) An assault.~~

~~(3) Compelling the other by force or threat of force to perform an act from which he or she has the right to refrain or to refrain from an act which he or she has the right to perform.~~

~~(4) A sexual assault.~~

~~(5) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:~~

~~(I) Stalking.~~

~~(II) Arson.~~

~~(III) Trespassing.~~

~~(IV) Larceny.~~

~~(V) Destruction of private property.~~

~~(VI) Carrying a concealed weapon without a permit.~~

~~(VII) Injuring or killing an animal.~~

~~(6) False imprisonment.~~

~~(7) Unlawful entry of the other’s residence, or forcible entry against the other’s will if there is a reasonably foreseeable risk of harm to the other from the entry.~~

~~(b) “Dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.] (Deleted by amendment.)~~

~~Sec. 14. [NRS 178.484 is hereby amended to read as follows:~~

~~178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.~~

~~2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:~~

~~(a) A court issues an order directing that the person be admitted to bail;~~

~~(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or~~

~~(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.~~

~~3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:~~

~~(a) A court issues an order directing that the person be admitted to bail; or~~

~~—(b) A department of alternative sentencing directs the detention facility to admit the person to bail.~~

~~—4— A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.~~

~~—5— A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.~~

~~—6— A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.~~

~~—7— A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~—(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;~~

~~—(b) Five thousand dollars, if the person has:~~

~~—(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~—(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~—(c) Fifteen thousand dollars, if the person has:~~

~~—(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which~~

~~the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or~~

~~— (2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.~~

~~— The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~— 8. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating 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, or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or for violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 must not be admitted to bail sooner than 12 hours after arrest if:~~

~~— (a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (b) The person has previously violated a temporary or extended order for protection of the type for which the person has been arrested; or~~

~~— (c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in the person's blood or breath; or~~

~~— (2) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110.~~

~~— 9. If a person is admitted to bail more than 12 hours after arrest, pursuant to subsection 8, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:~~

~~— (a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating 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, or of violating a temporary or extended order for protection against stalking, aggravated stalking or~~

harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;

~~— (b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating 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, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378;~~

~~or~~

~~— (c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating 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, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378.~~

~~→ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating 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, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378, if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~— 10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.~~

~~— 11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:~~

~~— (a) Requiring the person to remain in this State or a certain county within this State;~~

~~— (b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the person's behalf;~~

~~— (c) Prohibiting the person from entering a certain geographic area; or~~

~~— (d) Prohibiting the person from engaging in specific conduct that may be harmful to the person's own health, safety or welfare, or the health, safety or welfare of another person.~~

~~— In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.~~

~~— 12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:~~

~~— (a) Deem such conduct a contempt pursuant to NRS 22.010; or~~

~~— (b) Increase the amount of bail pursuant to NRS 178.499.~~

~~— 13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if the officer has probable cause to believe that the person has violated a condition of bail.~~

~~— 14. Before a person may be admitted to bail, the person must sign a document stating that:~~

~~— (a) The person will appear at all times and places as ordered by the court releasing the person and as ordered by any court before which the charge is subsequently heard;~~

~~— (b) The person will comply with the other conditions which have been imposed by the court and are stated in the document; and~~

~~— (c) If the person fails to appear when so ordered and is taken into custody outside of this State, the person waives all rights relating to extradition proceedings.~~

~~— The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.~~

~~— 15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.~~

~~— 16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.~~

~~— 17. As used in this section, "strangulation" has the meaning ascribed to it in NRS 200.481.] (Deleted by amendment.)~~

Sec. 15. ~~[NRS 200.378 is hereby amended to read as follows:~~

~~200.378 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of sexual assault has been committed against him or her by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who allegedly committed the sexual assault to:~~

~~(a) Stay away from the home, school, business or place of employment of the victim of the alleged sexual assault and any other location specifically named by the court.~~

~~(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged sexual assault and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.~~

~~(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged sexual assault or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.~~

~~2. If a defendant charged with a crime involving sexual assault is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:~~

~~(a) Stay away from the home, school, business or place of employment of the victim of the alleged sexual assault and any other location specifically named by the court.~~

~~(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged sexual assault and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.~~

~~(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged sexual assault or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.~~

~~3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:~~

~~(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and~~

~~(b) A hearing is held on the petition.~~

~~4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.~~

~~5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:~~

~~(a) A temporary order is guilty of a gross misdemeanor.~~

~~— (b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~— 6. Any court order issued pursuant to this section must:~~

~~— (a) Be in writing;~~

~~— (b) Be personally served on the person to whom it is directed; and~~

~~— (c) Contain the warning that violation of the order:~~

~~— (1) Subjects the person to immediate arrest.~~

~~— (2) Is a gross misdemeanor if the order is a temporary order.~~

~~— (3) Is a category C felony if the order is an extended order.~~

~~— 7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the arrest if:~~

~~— (a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (b) The person has previously violated a temporary or extended order for protection; or~~

~~— (c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in his or her blood or breath; or~~

~~— (2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 [or 4] of NRS 484C.110. (Deleted by amendment.)~~

~~Sec. 16. [NRS 200.591 is hereby amended to read as follows:~~

~~— 200.591 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him or her by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:~~

~~— (a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.~~

~~— (b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.~~

~~— (c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.~~

~~— 2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:~~

~~— (a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.~~

~~— (b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.~~

~~— (c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.~~

~~— 3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:~~

~~— (a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and~~

~~— (b) A hearing is held on the petition.~~

~~— 4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.~~

~~— 5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:~~

~~— (a) A temporary order is guilty of a gross misdemeanor.~~

~~— (b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~— 6. Any court order issued pursuant to this section must:~~

~~— (a) Be in writing;~~

~~— (b) Be personally served on the person to whom it is directed; and~~

~~— (c) Contain the warning that violation of the order:~~

~~— (1) Subjects the person to immediate arrest.~~

~~— (2) Is a gross misdemeanor if the order is a temporary order.~~

~~— (3) Is a category C felony if the order is an extended order.~~

~~— 7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:~~

~~— (a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;~~

~~— (b) The person has previously violated a temporary or extended order for protection; or~~

~~— (c) At the time of the violation or within 2 hours after the violation, the person has:~~

~~— (1) A concentration of alcohol of 0.08 or more in his or her blood or breath; or~~

~~(2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110. (Deleted by amendment.)~~

Sec. 17. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

- (a) Caused by the employee's willful intention to injure himself or herself.
- (b) Caused by the employee's willful intention to injure another.

(c) That occurred while the employee was in a state of intoxication, unless the employee can prove by clear and convincing evidence that his or her state of intoxication was not the proximate cause of the injury. For the purposes of this paragraph, an employee is in a state of intoxication if the level of alcohol in the bloodstream of the employee meets or exceeds the limits set forth in subsection 1 of NRS 484C.110.

(d) That occurred while the employee was under the influence of a controlled or prohibited substance, unless the employee can prove by clear and convincing evidence that his or her being under the influence of a controlled or prohibited substance was not the proximate cause of the injury. For the purposes of this paragraph, an employee is under the influence of a controlled or prohibited substance if the employee had an amount of a controlled or prohibited substance *for which the employee did not have a current and lawful prescription issued in the employee's name* in his or her system at the time of his or her injury that was equal to or greater than ~~the limits set forth in subsection 3 or 4 of NRS 484C.110 and for which the employee did not have a current and lawful prescription issued in the employee's name.~~ :

<i>Urine</i>	<i>Blood</i>	
<i>Nanograms per</i>	<i>Nanograms per</i>	
<i>Prohibited substance</i>	<i>milliliter</i>	<i>milliliter</i>
<i>Amphetamine</i>	<i>500</i>	<i>100</i>
<i>Cocaine</i>	<i>150</i>	<i>50</i>
<i>Cocaine metabolite</i>	<i>150</i>	<i>50</i>
<i>Heroin</i>	<i>2,000</i>	<i>50</i>
<i>Heroin metabolite:</i>		
<i>Morphine</i>	<i>2,000</i>	<i>50</i>
<i>6-monoacetyl morphine</i>	<i>10</i>	<i>10</i>
<i>Lysergic acid diethylamide</i>	<i>25</i>	<i>10</i>
<i>Methamphetamine</i>	<i>500</i>	<i>100</i>
<i>Phencyclidine</i>	<i>25</i>	<i>10</i>
<i>Marijuana (delta-9-tetrahydrocannabinol)</i>		<i>2</i>

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.310, 50.315 or 50.320 is admissible to prove the existence of an impermissible quantity of alcohol or the existence, quantity or identity of an

impermissible controlled or prohibited substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled or prohibited substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

(c) The results of any testing for the use of alcohol or a controlled or prohibited substance, irrespective of the purpose for performing the test, must be made available to an insurer or employer upon request, to the extent that doing so does not conflict with federal law.

3. No compensation is payable for the death, disability or treatment of an employee if the employee's death is caused by, or insofar as the employee's disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his or her recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his or her recovery, the employee's compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➡ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

6. As used in this section, "prohibited substance" ~~has the meaning ascribed to it in NRS 484C.080.~~ **means any of the following substances if the person who uses the substance has not been issued a valid prescription to use the substance and the substance is classified in schedule I or II pursuant to NRS 453.166 or 453.176 when it is used:**

(a) ***Amphetamine.***

(b) ***Cocaine.***

(c) ***Cocaine metabolite.***

(d) ***Heroin.***

(e) ***Heroin metabolite:***

(1) ***Morphine.***

(2) ***6-monoacetyl morphine.***

(f) ***Lysergic acid diethylamide.***

(g) ***Methamphetamine.***

(h) ***Phencyclidine.***

(i) Marijuana (delta-9-tetrahydrocannabinol).

Sec. 17.5. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the result of a test given pursuant to NRS 484C.150 or 484C.160 shows that a person 18 years of age or older had a concentration of alcohol of 0.04 or more but less than ~~0.08~~ **0.10** in his or her blood or breath or any detectable amount of a substance described in 21 C.F.R. 1308.11 in his or her blood or urine at the time of the test, the person's commercial driver's license, commercial learner's permit or privilege to drive a commercial motor vehicle must be suspended for a period of 1 year.

2. This section does not preclude:

(a) The prosecution of a person for a violation of any other provision of law; or

(b) The suspension or revocation of a person's commercial driver's license, commercial learner's permit or privilege to drive a commercial motor vehicle pursuant to any other provision of law.

Sec. 18. 1. This ~~act becomes~~ section and sections 1 to 17, inclusive, of this act become effective on July 1, 2021.

2. Section 17.5 of this act becomes effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 722 to Assembly Bill No. 400.

Remarks by Assemblyman Yeager.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 19.

The following Senate amendment was read:

Amendment No. 512.

AN ACT relating to education; revising the academic subjects that constitute social studies; exempting standards of content and performance for courses of study in public schools from certain requirements governing the adoption of regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) designates certain academic subjects, including social studies, as core academic subjects that must be taught in all public schools; and (2) requires the Council to Establish Academic Standards for Public Schools to adopt standards of content and performance for certain courses of study, including courses in the core academic subjects. Additionally, existing law provides that social studies includes only the subjects of history, geography, economics and government. (NRS 389.018, 389.520) **Sections ~~17~~**

‡ 2 and 3 of this bill remove government from the list of subjects included within social studies and add civics, financial literacy and multicultural education to that list.

Existing law requires rules of general applicability to be adopted as regulations and prescribes a process for the adoption of regulations. (NRS 233B.038, 233B.040-233B.115) **Section 4** of this bill exempts standards of content and performance for courses of study in public schools from the process otherwise required for the adoption of regulations, and **section 5** of this bill provides for the removal of existing standards from the Nevada Administrative Code.

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

Section 1. ~~NRS 388D.050 is hereby amended to read as follows:~~

~~388D.050 1. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English language arts, mathematics, science and social studies, including history,~~

~~geography, economics , civics, financial literacy and [government,] multicultural education, as appropriate for the age and level of skill of the child as determined by the parent.~~

~~2. The educational plan must be included in the notice of intent to homeschool filed pursuant to NRS 388D.020. If the educational plan contains the requirements of NRS 388D.020, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court.~~

~~3. This section does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.] (Deleted by amendment.)~~

Sec. 2. NRS 389.018 is hereby amended to read as follows:

389.018 1. The following subjects are designated as the core academic subjects that must be taught, as applicable for grade levels, in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

- (a) English language arts;
- (b) Mathematics;
- (c) Science; and
- (d) Social studies, which includes only the subjects of history, geography, economics , civics, financial literacy and [government,] multicultural education.

2. Except as otherwise provided in this subsection, a pupil enrolled in a public high school must enroll in a minimum of:

- (a) Four units of credit in English language arts;

(b) Four units of credit in mathematics, including, without limitation, Algebra I and geometry, or an equivalent course of study that integrates Algebra I and geometry;

(c) Three units of credit in science, including two laboratory courses; and

(d) Three units of credit in social studies, including, without limitation:

(1) American government;

(2) American history; and

(3) World history or geography.

↪ A pupil is not required to enroll in the courses of study and credits required by this subsection if the pupil, the parent or legal guardian of the pupil and an administrator or a counselor at the school in which the pupil is enrolled mutually agree to a modified course of study for the pupil and that modified course of study satisfies at least the requirements for a standard high school diploma, an adjusted diploma or an alternative diploma, as applicable.

3. Except as otherwise provided in this subsection, in addition to the core academic subjects, the following subjects must be taught as applicable for grade levels and to the extent practicable in all public schools, the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS:

(a) The arts;

(b) Computer education and technology;

(c) Health; and

(d) Physical education.

↪ If the State Board requires the completion of course work in a subject area set forth in this subsection for graduation from high school or promotion to the next grade, a public school shall offer the required course work. Except as otherwise provided for a course of study in health prescribed by subsection 1 of NRS 389.021 and the instruction prescribed by subsection 1 of NRS 389.064, unless a subject is required for graduation from high school or promotion to the next grade, a charter school is not required to comply with this subsection.

4. Instruction in health and physical education provided pursuant to subsection 3 must include, without limitation, instruction concerning the importance of annual physical examinations by a provider of health care and the appropriate response to unusual aches and pains.

Sec. 3. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 5, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English language arts;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics , *civics*, *financial literacy* and ~~{government}~~ *multicultural education*;

(5) The arts;

(6) Computer education and technology, which includes computer science and computational thinking;

(7) Health;

(8) Physical education; and

(9) A foreign or world language.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 390.115 of the results of pupils on the examinations administered pursuant to NRS 390.105.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. The standards for social studies must include multicultural education, including, without limitation, information relating to contributions made by men and women from various racial and ethnic backgrounds. The Council shall consult with members of the community who represent the racial and ethnic diversity of this State in developing such standards.

4. The standards for health must include mental health and the relationship between mental health and physical health.

5. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English language arts and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

6. The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

7. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

↪ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

8. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 390.105.

9. As used in this section:

(a) “Computer contaminant” has the meaning ascribed to it in NRS 205.4737.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

(c) “Electronic communication” has the meaning ascribed to it in NRS 388.124.

Sec. 4. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

- (d) The Office of the Military.
 - (e) The Nevada Gaming Control Board.
 - (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.
 - (g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.
 - (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
 - (i) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
 - (j) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
 - (k) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.
 - (l) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.
 - (m) The Silver State Health Insurance Exchange.
 - (n) The Cannabis Compliance Board.
2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.
3. The special provisions of:
- (a) Chapter 612 of NRS for the adoption of an emergency regulation or the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;
 - (b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;
 - (c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and
 - (d) NRS 90.800 for the use of summary orders in contested cases,
- ↪ prevail over the general provisions of this chapter.
4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.
5. The provisions of this chapter do not apply to:
- (a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State

Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;

(d) The judicial review of decisions of the Public Utilities Commission of Nevada;

(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178;

(f) The adoption or amendment of a rule or regulation to be included in the State Plan for Services for Victims of Crime by the Department of Health and Human Services pursuant to NRS 217.130;

(g) The adoption, amendment or repeal of rules governing the conduct of contests and exhibitions of unarmed combat by the Nevada Athletic Commission pursuant to NRS 467.075; ~~for~~

(h) The adoption, amendment or repeal of regulations by the Director of the Department of Health and Human Services pursuant to NRS 447.335 to 447.350, inclusive ~~to~~ ; or

(i) The adoption, amendment or repeal of standards of content and performance for courses of study in public schools by the Council to Establish Academic Standards for Public Schools and the State Board of Education pursuant to NRS 389.520.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 5. As soon as practicable after the effective date of this act, the Legislative Counsel shall remove from the Nevada Administrative Code all regulations establishing standards of content and performance for courses of study in public schools.

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Bilbray-Axelrod moved that the Assembly concur in the Senate Amendment No. 512 to Assembly Bill No. 19.

Remarks by Assemblywoman Bilbray-Axelrod.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 57.

The following Senate amendment was read:

Amendment No. 616.

AN ACT relating to education; requiring that pupil growth account for 0 percent of certain teacher and administrator evaluations ~~through~~ for the ~~2022-2023~~ 2021-2022 school year; requiring that pupil growth account for

15 percent of certain teacher and administrator evaluations beginning with the ~~[2023-2024]~~ 2022-2023 school year; temporarily suspending the requirement to develop learning goals for pupils to measure pupil growth; clarifying that pupil growth accounts for 0 percent of certain teacher and administrator evaluations for the entirety of the 2020-2021 school year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that pupil growth account for 15 percent of an evaluation of a teacher or administrator who provides direct instructional services to pupils. (NRS 391.465) Existing law provides that pupil growth may be determined by the extent to which the learning goals of a pupil are achieved. (NRS 391.480) **Section 1** of this bill requires that pupil growth account for 0 percent of an evaluation of a teacher or administrator during the school ~~[years 2020-2021,]~~ year 2021-2022. ~~[and 2022-2023.]~~ **Section 1** requires that pupil growth account for 15 percent of such an evaluation for each ~~[school]~~ academic year beginning with the ~~[academic]~~ school year ~~[2023-2024.]~~ 2022-2023. **Section 2** of this bill temporarily suspends the requirement to establish learning goals for pupils during the school years 2020-2021 ~~[,]~~ and 2021-2022 ~~;~~ ; ~~[and 2022-2023.]~~

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

Section 1. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 3, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Developing; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a), which must include, without limitation, consideration of whether the classes for which the employee is responsible exceed the applicable recommended ratios of pupils per licensed teacher prescribed by the State Board pursuant to NRS 388.890 and, if so, the degree to which the ratios affect:

- (1) The ability of the employee to carry out his or her professional responsibilities; and
- (2) The instructional practices of the employee.

(c) Except as otherwise provided in subsections 2 and 3 of NRS 391.695 and subsections 2 and 3 of NRS 391.715, require that pupil growth, as determined pursuant to NRS 391.480, account for ~~15~~ :

(1) Zero percent of the evaluation of a teacher or administrator who provides direct instructional services to pupils at a school in a school district for the ~~following~~ school years:

~~*(I) School year 2020-2021;*~~

~~*(II) School year 2021-2022; and*~~

~~*(III) School year 2022-2023; and*~~

(2) Fifteen percent of the evaluation of a teacher or administrator who provides direct instructional services to pupils at a school in a school district ~~for each academic year beginning with the school year 2023-2024~~ 2022-2023.

(d) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal or licensed educational employee, other than a teacher or administrator, employs practices and strategies to involve and engage the parents and families of pupils.

(e) Include a process for peer observations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer observations pursuant to the process.

3. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

4. An administrator at the district level who provides direct supervision of the principal of a school and who also serves as the superintendent of schools of a school district must not be evaluated using the statewide performance evaluation system.

Sec. 2. NRS 391.480 is hereby amended to read as follows:

391.480 *For each school year beginning with the school year ~~2023-~~
~~2024-2022-2023:~~*

1. Each teacher at a school in a school district shall, in consultation with the principal of the school at which the teacher is employed or other administrator who is assigned by the principal, develop learning goals for the pupils of the teacher for a specified period.

2. Each principal, vice principal and other administrator who provides direct instructional services to pupils at a school in a school district shall, in consultation with his or her direct supervisor, develop learning goals for the pupils at the school where the principal, vice principal or other administrator, as applicable, is employed for a specified period.

3. The Department shall establish a list of assessments that may be used by a school or school district to measure the achievement of learning goals established pursuant to this section.

4. The board of trustees of each school district shall ensure that the learning goals for pupils established pursuant to this section measure pupil growth in accordance with the criteria established by regulation of the State Board.

5. Each teacher and administrator who establishes learning goals for pupils pursuant to this section must be evaluated at the end of the specified period to determine the extent to which the learning goals of the pupils were achieved. Such an evaluation must be conducted in accordance with the criteria established by regulation of the State Board for determining the level of pupil growth for the purposes of the statewide performance evaluation system. The State Board may establish by regulation the manner in which to include certain categories of pupils in the evaluation conducted pursuant to this subsection.

Sec. 2.5. Notwithstanding the amendatory provisions of section 2 of this act, if an agreement entered into between a school district and an employee organization before the effective date of this act provides incentives to teachers on the basis of learning goals for the pupils of the teacher, a teacher who is subject to such an agreement may continue to develop learning goals for pupils pursuant to NRS 391.480 to satisfy the requirements of the agreement for the duration of the agreement. Any learning goals for pupils developed by a teacher shall account for the percentage of the evaluation of a teacher pursuant to NRS 391.465 set forth in that section.

Sec. 3. The amendatory provisions of sections 1 and 2 of this act apply for the entirety of the 2020-2021 school year to the evaluation of a teacher or administrator who provides direct instructional services to pupils at a school in a school district **and only to the extent that the amendatory provisions of sections 1 and 2 of this act do not result in the decrease of the overall rating of the teacher or administrator.**

Sec. 4. 1. This act becomes effective upon passage and approval.

2. The amendatory provisions of sections 1 and 2 of this act expire by limitation on June 30, 2023.

Assemblywoman Bilbray-Axelrod moved that the Assembly concur in the Senate Amendment No. 616 to Assembly Bill No. 57.

Remarks by Assemblywoman Bilbray-Axelrod.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 88.

The following Senate amendment was read:

Amendment No. 539.

ASSEMBLYMEN WATTS, NGUYEN, GONZÁLEZ, PETERS, TORRES; ANDERSON
.BILBRAY-AXELROD AND FLORES

AN ACT relating to governmental entities; requiring the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils to adopt a policy prohibiting the use of certain racially discriminatory identifiers; authorizing the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils to use an identifier associated with a federally recognized Indian tribe in certain circumstances; **prohibiting a county, city or unincorporated town from sounding certain sirens, alarms or bells;** requiring the Nevada State Board on Geographic Names to recommend changes to the names of geographic features or places that are racially discriminatory; requiring the Board to report annually to the Legislature or the Legislative Commission, as applicable, on any recommendations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the board of trustees of each school district, governing body of each charter school and governing body of each university school for profoundly gifted pupils to change, and adopt a policy that prohibits the use of, any name, logo, mascot, song or other identifier that: (1) is racially discriminatory; or (2) contains racially discriminatory language or imagery. **Section 1** authorizes the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils to use an identifier associated with a federally recognized Indian tribe if the board of trustees or governing body obtains permission for the use of the identifier from the Indian tribe.

Section 2.3 of this bill prohibits a county in this State from sounding a siren, bell or alarm at a time during which the siren, bell or alarm was previously sounded on specific days or times in association with an ordinance enacted by the county which required persons of a particular race, ethnicity, ancestry, national origin or color to leave the county or a city, town or township within the county by a certain time. Sections 2.5 and 2.7 of this bill impose a similar prohibition on cities and unincorporated towns in this State, respectively.

Existing law creates the Nevada State Board on Geographic Names. (NRS 327.110) Under existing law, the Board makes official recommendations to

the United States Board on Geographic Names on proposals for the names of geographic features and places in this State for use in maps and official documents. (NRS 327.140) **Section 3** of this bill requires the Board to recommend changes to the name of any geographic feature or place that: (1) is racially discriminatory; or (2) contains racially discriminatory language or imagery. **Section 3** also requires the Board to submit an annual report on any recommendations to change the name of a geographic feature or place to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the board of trustees of each school district, governing body of each charter school and governing body of each university school for profoundly gifted pupils shall change, and adopt a policy prohibiting the use of, any name, logo, mascot, song or other identifier that is racially discriminatory or contains racially discriminatory language or imagery, including, without limitation, a name, logo, mascot, song or other identifier associated with the Confederate States of America or a federally recognized Indian tribe.

2. The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils may use a name, logo, mascot, song or other identifier associated with a federally recognized Indian tribe if the board of trustees or governing body obtains approval from the Indian tribe to use the name, logo, mascot, song or other identifier.

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

A county in this State may not sound a siren, bell or alarm at a time during which the siren, bell or alarm was previously sounded on specific days or times in association with an ordinance enacted by the county which required persons of a particular race, ethnicity, ancestry, national origin or color to leave the county or a city, town or township within the county by a specific time.

Sec. 2.5. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

A city in this State may not sound a siren, bell or alarm at a time during which the siren, bell or alarm was previously sounded on specific days or times in association with an ordinance enacted by the city which required persons of a particular race, ethnicity, ancestry, national origin or color to leave the city by a specific time.

Sec. 2.7. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

An unincorporated town in this State may not sound a siren, bell or alarm at a time during which the siren, bell or alarm was previously sounded on specific days or times in association with an ordinance enacted by the town which required persons of a particular race, ethnicity, ancestry, national origin or color to leave the town by a specific time.

Sec. 3. NRS 327.140 is hereby amended to read as follows:

327.140 1. The Board shall:

(a) Receive and evaluate all proposals for changes in or additions to names of geographic features and places in the State to determine the most appropriate and acceptable names for use in maps and official documents of all levels of government.

(b) Make official recommendations on behalf of the State with respect to each proposal.

(c) Assist and cooperate with the United States Board on Geographic Names in matters relating to names of geographic features and places in Nevada.

(d) Maintain a list of advisers who have special knowledge of or expertise in Nevada history, geography or culture and consult with those advisers on a regular basis in the course of its work.

(e) Recommend to change the name of any geographic feature or place in this State that is racially discriminatory or contains racially discriminatory language or imagery.

(f) Report annually on any recommendation to change the name of a geographic feature or place pursuant to paragraph (e) and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission.

2. The Board may:

(a) Adopt regulations to assist in carrying out the functions and duties assigned to it by law.

(b) Initiate proposals for changes in or additions to geographic names in the State. Any proposal initiated by the Board must be evaluated in accordance with the same procedures prescribed for the consideration of other proposals.

Sec. 4. The board of trustees of each school district, governing body of each charter school and governing body of each university school for profoundly gifted pupils shall adopt the policy required by section 1 of this act and change any applicable name, logo, mascot, song or other identifier on or before July 1, 2022.

Sec. 5. 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.

Assemblywoman Bilbray-Axelrod moved that the Assembly concur in the Senate Amendment No. 539 to Assembly Bill No. 88.

Remarks by Assemblywoman Bilbray-Axelrod.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 105.

The following Senate amendment was read:

Amendment No. 540.

AN ACT relating to interscholastic activities; requiring any board formed to govern the Nevada Interscholastic Activities Association to include at least three members who are parents or guardians of pupils who participate in a sanctioned sport; requiring any advisory board to a governing board to include at least three members who are pupils currently participating in a sanctioned sport; establishing certain requirements relating to the residency and terms of such members who are parents, guardians or pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Nevada Interscholastic Activities Association controls, supervises and regulates all interscholastic athletic events and other interscholastic events in public schools. (NRS 385B.050) This bill requires any board formed to govern the Nevada Interscholastic Activities Association to include at least three members who are parents or guardians of pupils who participate in a sanctioned sport. This bill also requires any advisory board formed to advise a governing board to include at least three members who are pupils currently participating in a sanctioned sport. Such members are required to fulfill certain residency requirements and are prohibited from being employees of or immediate family members of employees of a school district ~~[-],~~ **charter school or private school.** This bill also requires that the terms of such members be consistent in duration with the terms of other members of the board and be served in full-year increments during any year that a pupil who is a member or a pupil whose parent or guardian is a member participates in one or more sanctioned sports.

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

Section 1. NRS 385B.050 is hereby amended to read as follows:

385B.050 **1.** The county school district trustees may form a nonprofit association, to be known as the Nevada Interscholastic Activities Association, composed of all of the school districts of the State for the purposes of controlling, supervising and regulating all interscholastic athletic events and other interscholastic events in the public schools. This section does not prohibit a public school, which is authorized by the Association to do so, from joining an association formed for similar purposes in another state.

2. *Any board formed to govern the Nevada Interscholastic Activities Association must include at least three members who are parents or guardians of pupils who participate in a sanctioned sport. Of the members who are parents or guardians of pupils who participate in a sanctioned sport:*

(a) At least one member must be a resident of a county whose population is 700,000 or more;

(b) At least one member must be a resident of a county whose population is 100,000 more but less than 700,000;

(c) At least one member must be a resident of a county whose population is less than 100,000; and

(d) Each member must not be an employee of or an immediate family member of an employee of a school district ~~or~~, charter school or private school.

3. *Any advisory board formed to advise a governing board of the Nevada Interscholastic Activities Association must include at least three members who are pupils currently participating in a sanctioned sport. Of the members who are pupils currently participating in a sanctioned sport:*

(a) At least one member must be a resident of a county whose population is 700,000 or more;

(b) At least one member must be a resident of a county whose population is 100,000 or more but less than 700,000;

(c) At least one member must be a resident of a county whose population is less than 100,000; and

(d) Each member must not be an employee of or an immediate family member of an employee of a school district.

4. *The terms of each member of a board formed to govern the Nevada Interscholastic Activities Association who is a parent or guardian of a pupil who participates in a sanctioned sport and each pupil who is a member of an advisory board to such a governing board must be consistent in duration with the terms of other members of the applicable board and be served in full-year increments during any year that a pupil who is a member or a pupil whose parent or guardian is a member participates in one or more sanctioned sports.*

Sec. 2. This act becomes effective on July 1, 2022.

Assemblywoman Bilbray-Axelrod moved that the Assembly concur in the Senate Amendment No. 540 to Assembly Bill No. 105.

Remarks by Assemblywoman Bilbray-Axelrod.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 71.

The following Senate amendment was read:

Amendment No. 651.

AN ACT relating to conservation; providing, with certain exceptions, that certain information related to a rare plant or animal species or ecological

community that is included in the data systems maintained by the Division of Natural Heritage of the State Department of Conservation and Natural Resources is confidential; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Natural Heritage of the State Department of Conservation and Natural Resources to maintain data systems related to the location, biology and conservation status of plants and animal species and ecosystems. (NRS 232.1369) **Section 1** of this bill provides, with certain exceptions, that the specific location of a rare plant or animal species or ecological community that is included in the Division's data systems is confidential. **Section 1** authorizes, under certain circumstances, the Administrator of the Division or his or her designee to release this confidential information to a person upon request. **Section 1** further requires the Administrator or his or her designee to release this confidential information to certain persons who enter into a written agreement which includes a provision that requires the person to maintain the confidentiality of the information. **Section 1 also requires the Administrator or his or her designee to make a reasonable effort to notify an owner of private property if the Administrator or designee releases any confidential information related to the specific location of a rare plant or animal species or ecological community which is located on the owner's property.**

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

Section 1. NRS 232.1369 is hereby amended to read as follows:

232.1369 1. The Division of Natural Heritage shall:

- (a) Provide expertise in the areas of zoology, botany and community ecology, including the study of wetland ecosystems; and
- (b) Maintain data systems related to the location, biology and conservation status of plant and animal species and ecosystems.

2. *Except as otherwise provided in this section, the specific location of a rare plant or animal species or ecological community that is included in the data systems maintained by the Division pursuant to subsection 1 is confidential.*

3. *Except as otherwise provided in subsection 4, the Administrator or his or her designee may release information declared confidential pursuant to subsection 2 upon request to any person, including, without limitation, an owner of property on which a rare plant or animal species occurs or on which a sensitive ecological community is located, if:*

- (a) The release of the information is not otherwise prohibited by law;*
- (b) The release of the information is not restricted by the original provider of the information; and*
- (c) The Administrator or his or her designee determines that the request is:*

(1) *Related to conservation, environmental review, education, land management, scientific research or a similar purpose;*

(2) *Limited to the release of information necessary to achieve the purpose of the request; and*

(3) *Unlikely to result in harm to a rare plant or animal species or ecological community.*

4. *The Administrator or his or her designee shall release information declared confidential pursuant to subsection 2 upon request to a person who is engaged in conservation, environmental review or scientific research and enters into a written agreement with the Administrator or his or her designee which includes a provision that requires the person to maintain the confidentiality of the information to the extent necessary to protect the rare plant or animal species or ecological community.*

5. *The provisions of chapter 239 of NRS apply to the release of any information that is authorized or required pursuant to this section.*

6. *The Administrator or his or her designee shall make a reasonable effort to notify an owner of private property if the Administrator or designee releases any confidential information related to the specific location of a rare plant or animal species or ecological community which is located on the owner's property.*

7. *The Administrator may adopt any regulations necessary to carry out the provisions of this section.*

~~774~~ 8. *As used in this section, "rare plant or animal species or ecological community" includes, without limitation, any species, subspecies or ecological community:*

(a) *Declared as threatened or endangered or designated as a candidate for listing as threatened or endangered pursuant to the federal Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.;*

(b) *Designated as sensitive by the United States Bureau of Land Management or the United States Forest Service;*

(c) *Classified as protected, sensitive, threatened or endangered by the Board of Wildlife Commissioners pursuant to NRS 501.110;*

(d) *Protected under the provisions of chapter 527 of NRS, including, without limitation, Christmas trees, cacti and yucca protected pursuant to NRS 527.060 to 527.120, inclusive, and any species listed as a fully protected species of native flora pursuant to NRS 527.270; or*

(e) *Considered rare or at risk of extinction by the Division of Natural Heritage.*

Sec. 2. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,

118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, **232.1369**, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207, 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,

624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

- (a) The public record:
 - (1) Was not created or prepared in an electronic format; and
 - (2) Is not available in an electronic format; or
 - (b) Providing the public record in an electronic format or by means of an electronic medium would:
 - (1) Give access to proprietary software; or
 - (2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.
5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:
- (a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.
 - (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Watts moved that the Assembly concur in the Senate Amendment No. 651 to Assembly Bill No. 71.

Remarks by Assemblyman Watts.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 84.

The following Senate amendment was read:

Amendment No. 642.

AN ACT relating to wildfires; authorizing the State Forester Firewarden to enter into certain public-private partnerships; **authorizing the State Forester Firewarden to purchase or acquire certain equipment for the early warning or detection of wildfires;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Forester Firewarden, with certain approval, to enter into certain cooperative agreements for the purpose of securing cooperation in forest management and the protection of the forest and watershed areas of Nevada from fire. (NRS 472.050) ~~(This)~~ **Section 1 of this bill authorizes the State Forester Firewarden, with certain approval, to also enter into certain public-private partnerships for the purpose of addressing the threat of wildfires.**

Existing law sets forth the powers and duties of the State Forester Firewarden, which include the discretionary authority to purchase, or acquire by donation, supplies and equipment necessary for fire protection and forest and watershed management. (NRS 472.040) Section 2 of this bill further authorizes the State Forester Firewarden to purchase, or

acquire by donation, cameras or other equipment necessary for the early warning or detection of wildfires.

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

Section 1. Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:

The State Forester Firewarden, with the approval of the Director of the State Department of Conservation and Natural Resources, may represent the State of Nevada in negotiating and entering into, cancelling, modifying and renewing one or more public-private partnerships for the purpose of addressing the threat of catastrophic wildfires in this State. Any such public-private partnership may address, without limitation, investment in wildfire prevention, restoration, infrastructure and workforce development for enhancing landscape resiliency against the threat of wildfires.

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318 or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to NRS 533.436.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary ~~to~~ for fire protection, fire prevention and forest and watershed management ~~to~~ , including, without limitation, cameras or other equipment necessary for the early warning or detection of wildfires.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying

expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Assemblyman Watts moved that the Assembly concur in the Senate Amendment No. 642 to Assembly Bill No. 84.

Remarks by Assemblyman Watts.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 85.

The following Senate amendment was read:

Amendment No. 575.

AN ACT relating to agriculture; revising provisions relating to the control of noxious weeds; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Quarantine Officer to declare by regulation which weeds of the State are noxious weeds but prohibits the State Quarantine Officer from designating a weed as noxious if the weed is so well established in the State that the State Quarantine Officer judges its control to be impracticable. (NRS 555.130) This bill removes the prohibition, thereby authorizing the State Quarantine Officer to declare any weed to be noxious by regulation.

Existing law authorizes the State Quarantine Officer to temporarily designate a weed as a noxious weed if he or she determines that immediate control of the weed is necessary. Such a temporary designation expires 18 months after the designation is made. (NRS 555.130) This bill [additionally] requires the State Quarantine Officer to hold a public meeting before making such a temporary designation.

Finally, this bill authorizes the State Quarantine Officer to limit a declaration or temporary designation to a specific geographic area or to specific geographic areas in this State so that a declaration or temporary designation would only apply to those specific geographic areas and not to the entire State. **If the State Quarantine Officer makes a temporary designation that is limited to a specific geographic area or to specific geographic areas, this bill requires the State Quarantine Officer to consult with each applicable state agency or department or governing body of a local government which has jurisdiction over any public right-of-way in that area.**

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

Section 1. NRS 555.130 is hereby amended to read as follows:

555.130 1. Except as otherwise provided in subsection 2, the State Quarantine Officer may declare by regulation the weeds of the state that are noxious weeds . ~~1, but a weed must not be designated as noxious which is already~~

~~introduced and established in the State to such an extent as to make its control impracticable in the judgment of the State Quarantine Officer.~~

2. ~~[The]~~ **After holding a public meeting, the** State Quarantine Officer may temporarily designate a weed as a noxious weed if he or she determines that immediate control of the weed is necessary. A temporary designation expires 18 months after the State Quarantine Officer makes the designation.

3. **The State Quarantine Officer may limit a declaration made pursuant to subsection 1 or a temporary designation made pursuant to subsection 2 to a specific geographic area or to specific geographic areas in this State. Before the State Quarantine Officer makes a temporary designation pursuant to subsection 2 that is limited to a specific geographic area or to specific geographic areas pursuant to this subsection, the State Quarantine Officer shall consult with each applicable state agency or department or governing body of a local government which has jurisdiction over any public right-of-way in the specific geographic area or areas.**

Assemblyman Watts moved that the Assembly concur in the Senate Amendment No. 575 to Assembly Bill No. 85.

Remarks by Assemblyman Watts.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 181.

The following Senate amendment was read:

Amendment No. 520.

AN ACT relating to mental health; providing for the reporting of certain information by certain providers of health care relating to **attempted** suicide; requiring certain insurers and other organizations providing health coverage to adhere to certain provisions of federal law; requiring certain insurers and other organizations providing health coverage to submit information demonstrating mental health parity and addiction equity compliance; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a provider of health care who knows of, or provides services to, a person who has suffered or is suspected of having suffered a drug overdose to report that fact and certain additional information to the Chief Medical Officer pursuant to procedures adopted by regulation by the State Board of Health. (NRS 441A.120, 441A.150) Existing law: (1) makes it a misdemeanor for a provider of health care to willfully fail to make such a report; and (2) additionally subjects a provider of health care who willfully fails to make such a report to an administrative fine. (NRS 441A.920) **Sections 6.2 and 6.4** of this bill additionally require ~~a provider~~ **certain providers** of

health care **designated by the State Board of Health** who ~~[knows]~~ **know** of, or ~~[provides]~~ **provide** services to, a person who ~~[has died by suicide]~~ has attempted suicide or is suspected of having attempted suicide to report that fact to the Chief Medical Officer pursuant to procedures adopted by regulation by the State Board of Health. **If such a provider of health care provides services in a medical facility, section 6.4 authorizes the medical facility to submit the report on behalf of the provider.** Section 6.6 of this bill provides for the confidentiality of personal information concerning ~~[a suicide or]~~ an attempted suicide reported to the Chief Medical Officer. Section 6.8 of this bill subjects a provider of health care who willfully fails to make such a report to the same misdemeanor penalty and administrative fine as a provider of health care who willfully fails to report a drug overdose. Section 6.4 requires the Chief Medical Officer to annually compile and submit to the Patient Protection Commission a report summarizing the information he or she receives from providers of health care concerning **attempted** suicide.

The federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 prohibits group health plans and health insurance issuers that provide benefits for mental health or substance use disorders from imposing less favorable benefit limitations on those benefits than on medical and surgical benefits. (Pub. L. No. 100-343, 122 Stat. 3765) Existing state law requires certain insurers or other organizations providing health coverage to comply with the Act. (NRS 687B.404) **Section 9** of this bill additionally requires health insurers regulated under state law, other than state and local governmental entities that provide health coverage for their employees, to comply with the Act. **Section 9** requires the Commissioner to annually prescribe and provide to insurers a data request that solicits information necessary to evaluate the compliance of the insurer with those federal requirements. **Section 8.3** of this bill exempts the adoption and amendment of the data request from requirements concerning the procedures set forth in existing law for adopting regulations. **Section 9** requires an insurer to either complete the data request or submit to the Commissioner a copy of a report submitted to the Federal Government demonstrating compliance with those federal requirements. **Sections 8.6 and 9** of this bill provide that such information reported by insurers is confidential. **Section 9** requires the Commissioner to annually submit a report summarizing the information that he or she receives from insurers to the Patient Protection Commission, the Governor and the Legislature.

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

- Section 1.** (Deleted by amendment.)
- Sec. 2.** (Deleted by amendment.)
- Sec. 3.** (Deleted by amendment.)
- Sec. 4.** (Deleted by amendment.)
- Sec. 5.** (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.2. NRS 441A.120 is hereby amended to read as follows:

441A.120 1. The Board shall adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. The regulations must specify:

(a) The diseases which are known to be communicable.

(b) The communicable diseases which are known to be sexually transmitted.

(c) The procedures for investigating and reporting cases or suspected cases of communicable diseases, including the time within which these actions must be taken.

(d) For each communicable disease, the procedures for testing, treating, isolating and quarantining a person or group of persons who have been exposed to or have or are suspected of having the disease.

(e) A method for ensuring that any testing, treatment, isolation or quarantine of a person or a group of persons pursuant to this chapter is carried out in the least restrictive manner or environment that is appropriate and acceptable under current medical and public health practices.

2. The Board shall adopt regulations governing the procedures for reporting cases or suspected cases of drug overdose ~~or suicide~~ **and attempted suicide** to the Chief Medical Officer or his or her designee, including ~~the~~ **without limitation:**

(a) The time within which such reports must be made and the information that such reports must include.

(b) The providers of health care who are required to report a case or suspected case of attempted suicide.

3. The duties set forth in the regulations adopted by the Board pursuant to subsection 1 must be performed by:

(a) In a district in which there is a district health officer, the district health officer or the district health officer's designee; or

(b) In any other area of the State, the Chief Medical Officer or the Chief Medical Officer's designee.

Sec. 6.4. NRS 441A.150 is hereby amended to read as follows:

441A.150 1. A provider of health care who knows of, or provides services to, a person who has or is suspected of having a communicable disease shall report that fact to the health authority in the manner prescribed by the regulations of the Board. If no provider of health care is providing services, each person having knowledge that another person has a communicable disease shall report that fact to the health authority in the manner prescribed by the regulations of the Board.

2. A provider of health care who knows of, or provides services to, a person who has suffered or is suspected of having suffered a drug overdose shall report that fact and the information required by the Board pursuant to NRS 441A.120 to the Chief Medical Officer or his or her designee in the

manner prescribed by the regulations of the Board. The Chief Medical Officer or his or her designee shall upload that information to the database of the program established pursuant to NRS 453.162 if the program allows for the upload of such information.

3. ~~4.4~~ **Except as otherwise provided in this subsection, a provider of health care who is required by the regulations adopted pursuant to NRS 441A.120 to report a case or suspected case of attempted suicide and knows of, or provides services to, a person who ~~has died by suicide,~~ has attempted suicide or is suspected of having attempted suicide shall report that fact and the information required by the Board pursuant to NRS 441A.120 to the Chief Medical Officer or his or her designee in the manner prescribed by the regulations of the Board. If such a provider of health care provides services at a medical facility, the medical facility may submit the report on behalf of the provider.** The Chief Medical Officer shall annually compile and submit to the Patient Protection Commission created by NRS 439.908 a report summarizing the information reported pursuant to this subsection.

4. A medical facility in which more than one provider of health care may know of, or provide services to, a person who has or is suspected of having a communicable disease, ~~for~~ who has suffered or is suspected of having suffered a drug overdose ~~or who ~~has died by suicide,~~ has attempted suicide~~ or is suspected of having attempted suicide shall establish administrative procedures to ensure that the health authority or Chief Medical Officer or his or her designee, as applicable, is notified.

~~4.4~~ 5. A laboratory director shall, in the manner prescribed by the Board, notify the health authority of the identification by his or her medical laboratory of the presence of any communicable disease in the jurisdiction of that health authority. The health authority shall not presume a diagnosis of a communicable disease on the basis of the notification received from the laboratory director.

~~4.5~~ 6. If more than one medical laboratory is involved in testing a specimen, the laboratory that is responsible for reporting the results of the testing directly to the provider of health care for the patient shall also be responsible for reporting to the health authority.

Sec. 6.6. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, ~~for~~ drug overdose ~~[, suicide] or attempted suicide,~~ or by any person who has a communicable disease, ~~for~~ has suffered a drug overdose ~~[, has died by suicide] or has attempted suicide,~~ or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except:

1. As otherwise provided in NRS 439.538.
2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

3. In a prosecution for a violation of this chapter.
4. In a proceeding for an injunction brought pursuant to this chapter.
5. In reporting the actual or suspected abuse or neglect of a child or elderly person.
6. To any person who has a medical need to know the information for his or her own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.
7. If the person who is the subject of the information consents in writing to the disclosure.
8. Pursuant to subsection 4 of NRS 441A.320 or NRS 629.069.
9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.
10. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.
11. If the disclosure is authorized or required by NRS 239.0115 or another specific statute.

Sec. 6.8. NRS 441A.920 is hereby amended to read as follows:

441A.920 Every provider of health care, medical facility or medical laboratory that willfully fails, neglects or refuses to comply with any regulation of the Board relating to the reporting of a communicable disease ~~for~~, a drug overdose ~~for a suicide~~ or an attempted suicide or any requirement of this chapter is guilty of a misdemeanor and, in addition, may be subject to an administrative fine of \$1,000 for each violation, as determined by the Board.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The Governor.
- (b) Except as otherwise provided in NRS 209.221, the Department of Corrections.
- (c) The Nevada System of Higher Education.
- (d) The Office of the Military.
- (e) The Nevada Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.
- (g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(j) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(k) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(l) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.

(m) The Silver State Health Insurance Exchange.

(n) The Cannabis Compliance Board.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the adoption of an emergency regulation or the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,
→ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;

(d) The judicial review of decisions of the Public Utilities Commission of Nevada;

(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178;

(f) The adoption or amendment of a rule or regulation to be included in the State Plan for Services for Victims of Crime by the Department of Health and Human Services pursuant to NRS 217.130;

(g) The adoption, amendment or repeal of rules governing the conduct of contests and exhibitions of unarmed combat by the Nevada Athletic Commission pursuant to NRS 467.075; ~~for~~

(h) The adoption, amendment or repeal of regulations by the Director of the Department of Health and Human Services pursuant to NRS 447.335 to 447.350, inclusive ~~for~~; *or*

(i) The adoption or amendment of a data request by the Commissioner of Insurance pursuant to NRS 687B.404.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 8.6. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387,

289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351,
333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727,
348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610,
365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300,
379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631,
388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247,
388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850,
393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885,
408.3886, 408.3888, 408.5484, 412.153, 414.280, 416.070, 422.2749,
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432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560,
432B.5902, 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760, 440.170,
441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 442.774,
445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245, 449.4315,
449A.112, 450.140, 450B.188, 453.164, 453.720, 453A.610, 453A.700,
458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120,
463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535,
480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070, 485.316,
501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877,
598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.303,
604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368, 632.121,
632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715, 633.524, 634.055,
634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089,
639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.580, 640C.600,
640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.221,
641.325, 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625,
645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130,
645D.135, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510,
661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, **687B.404**,
687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,

692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

- (1) Was not created or prepared in an electronic format; and
- (2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

- (1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 9. NRS 687B.404 is hereby amended to read as follows:

687B.404 *1.* An insurer or other organization providing health coverage pursuant to chapter ~~689A~~, 689B, ~~689C~~, 695A, 695B, 695C, ~~for~~ 695F *or* 695G of NRS, *including, without limitation, a health maintenance organization or managed care organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid*, shall ~~comply with~~ *adhere to* the *applicable* provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.

2. On or before July 1 of each year, the Commissioner shall prescribe and provide to each insurer or other organization providing health coverage subject to the provisions of subsection 1 a data request that solicits information necessary to evaluate the compliance of an insurer or other organization with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, including, without limitation, the comparative analyses specified in 42 U.S.C. § 300gg-26(a)(8).

3. On or before October 1 of each year, each insurer or other organization providing health coverage subject to the provisions of subsection 1 shall:

(a) Complete and submit to the Commissioner the data request prescribed pursuant to subsection 2; or

(b) Submit to the Commissioner a copy of a report submitted by the insurer or other organization to the Federal Government demonstrating compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law 110-343, Division C, Title V, Subtitle B, including, without limitation, the comparative analyses specified in 42 U.S.C. § 300gg-26(a)(8). The Commissioner may request from an insurer or other organization who submits a copy of such a report any supplemental information necessary to determine whether the insurer or other organization is in compliance with that federal law.

4. Any information provided by an insurer or other organization to the Commissioner pursuant to subsection 3 is confidential.

5. On or before December 31 of each year, the Commissioner shall compile a report summarizing the information submitted to the Commissioner pursuant to this section and submit the report to:

(a) The Patient Protection Commission created by NRS 439.908;

(b) The Governor; and

(c) The Director of the Legislative Counsel Bureau for transmittal to:

(1) In even-numbered years, the next regular session of the Legislature; and

(2) In odd-numbered years, the Legislative Committee on Health Care.

6. The Commissioner may adopt any regulations necessary to carry out the provisions of this section.

Sec. 10. (Deleted by amendment.)

Sec. 10.5. 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. 11. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 10.5, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

Assemblywoman Nguyen moved that the Assembly concur in the Senate Amendment No. 520 to Assembly Bill No. 181.

Remarks by Assemblywoman Nguyen.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 287.

The following Senate amendment was read:

Amendment No. 587.

SUMMARY—~~Providing for the licensing and regulating of freestanding birthing centers.~~ **Revises provisions relating to childbirth.** (BDR 40-799)

AN ACT relating to health care; revising certain terminology relating to pregnancy and birth; providing for the licensing and regulation of freestanding birthing centers; requiring a freestanding birthing center to perform certain screening, report certain information to the local health officer and make certain information available to the Chief Medical Officer; **authorizing the Maternal Mortality Review Committee to access certain information; eliminating the licensing and regulation of obstetric centers;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a midwife to perform certain duties relating to the registration of a birth and the care of a person who is pregnant or a newborn infant. (NRS 440.280, 440.340, 440.740, 440.770, 442.008, 442.030-442.110, 442.600-442.680) **Sections ~~11~~ 1.1 and 3** of this bill define the term “midwife” for those purposes to include a Certified Professional Midwife, a Certified Nurse-Midwife or any other type of midwife. **Sections 1.3-2.9, ~~4~~, 5, 6.3, 6.7, 7.2-7.7, 8.5, 9.3, 9.7 4-9.7, 29.5 and 33.5** of this bill replace the term “mother” **and similar terms** with references to a person who is pregnant, a person giving birth, a person who gave birth or a person who has given birth, as appropriate, for purposes relating to vital statistics, maternal and child health and medical facilities and related entities. **Section 22** of this bill replaces the term “gender transition” with the term “gender-affirming surgery.” **Section 23** of this bill replaces a reference to lesbian, gay, bisexual, transgender and questioning persons with a reference to persons with various sexual orientations and gender identities and expressions.

Existing law: (1) defines the term “obstetric center” to mean a facility that is not part of a hospital and provides services for normal, uncomplicated births; and (2) provides for the regulation of an obstetric center as a medical facility. (NRS 449.0155, 449.0302) **Sections 1, 1.9, 2, 4, 5, 36.3 and 36.7 of this bill replace the term “obstetric center” with the term “freestanding birthing center.” Sections 3 and 11 of this bill define the term “freestanding birthing center” to mean a facility that provides maternity care and birthing services in a location similar to a residence. ~~Section 14 of this bill clarifies that a freestanding birthing center is not subject to the same requirements as an obstetric center. Section 12~~ Section 13 of this bill makes a conforming change to indicate the proper placement of section 11 in the Nevada Revised Statutes. Sections 13.5 and 34.5 of this bill require a freestanding birthing center to be licensed as a medical facility and comply with provisions governing medical facilities. Section 36.5 of this bill declares existing regulations governing obstetric centers void, and sections 16.5 and 36.5 of this bill ~~requires~~ require the State Board of Health to adopt specific regulations ~~providing for~~ governing the licensure and operation of freestanding birthing centers, ~~separately from medical facilities. Section 12~~ also: (1) requires a freestanding birthing center to be located within 30 miles of a hospital that offers services relating to pregnancy; and (2) prohibits the performing of surgery at a freestanding birthing center. Sections 13 and 15 of this bill make conforming changes to indicate the proper placement of sections 11 and 12 in the Nevada Revised Statutes. Sections 17, 18, 20, 25-29 and 31-33 of this bill authorize certain actions to enforce provisions governing freestanding birthing centers. Sections 16, 19, 21-24 and 30 of this bill make various other changes to ensure that freestanding birthing centers are treated similarly to other licensed facilities that provide health-related services.**

~~Existing law requires the Board to develop and distribute to each hospital and obstetric center in the State forms for a voluntary acknowledgement of paternity or parentage. (NRS 440.283, 440.285) Sections 1.9 and 2 of this bill additionally require the Board to distribute these forms to each freestanding birthing center.~~

~~Existing law requires certain persons and entities that provide care for pregnant women and newborn infants to: (1) screen a newborn infant for certain conditions; (2) report information concerning certain conditions to the local health officer; and (3) make certain information concerning birth defects available to the Chief Medical Officer. (NRS 442.008, 442.040, 442.325, 442.610, 442.680) Sections 4, 5 and 7-9 of this bill make these requirements applicable to freestanding birthing centers. Section 6 of this bill provides for the imposition of a fine against a freestanding birthing center that fails to perform the required screening for ophthalmia neonatorum.~~ **Section 29.5 of this bill: (1) requires a freestanding birthing center to meet certain requirements currently applicable to obstetric centers; (2) requires a freestanding birthing center to be located within 30 miles of a hospital that offers services relating to pregnancy and newborn infants; (3) prohibits**

the performance of surgery at a freestanding birthing center; and (4) requires a freestanding birthing center to have a director who possesses certain qualifications. Section 36.7 of this bill repeals certain unnecessary definitions, and sections 34.2, 34.7 and 34.9 of this bill make conforming changes to add or remove references to those definitions.

Existing law: (1) requires the Maternal Mortality Review Committee to investigate each case of maternal mortality in this State; and (2) authorizes the Committee to access certain information in the performance of its duties. (NRS 442.767, 442.774) Existing law requires the Chief Medical Officer to establish and maintain a system for the reporting of information on cancer and other neoplasms. (NRS 457.230) Section 9.7 of this bill authorizes the Committee to access information in that system.

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

Section 1. NRS 439.805 is hereby amended to read as follows:

439.805 “Medical facility” means:

1. A hospital, as that term is defined in NRS 449.012 and 449.0151;
2. ~~[(An obstetric center,)]~~ **A freestanding birthing center,** as that term is defined in ~~[NRS 449.0151 and 449.0155;]~~ **section 11 of this act;**
3. A surgical center for ambulatory patients, as that term is defined in NRS 449.0151 and 449.019; and
4. An independent center for emergency medical care, as that term is defined in NRS 449.013 and 449.0151.

~~[Section 1.]~~ **Sec. 1.1.** Chapter 440 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, “midwife” means:

1. A person certified as:

- (a) A Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; or**
- (b) A Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; or**

2. Any other type of midwife.

Sec. 1.3. NRS 440.030 is hereby amended to read as follows:

440.030 As used in this chapter, “live birth” means a birth in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the ~~[mother,]~~ **person giving birth,** even if the cord is uncut and the placenta still attached. The words “evidence of life” include heart action, breathing or coordinated movement of voluntary muscle.

Sec. 1.6. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the ~~[mother,]~~ **person giving birth** and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the

certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the ~~mother~~ **person giving birth** and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

- (a) The physician in attendance at or immediately after the birth.
- (b) Any other person in attendance at or immediately after the birth.
- (c) The ~~father, mother~~ **person giving birth** or ~~her~~ **other parent**, or if the ~~father~~ **other parent** is absent and the ~~mother~~ **person giving birth** is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.

5. If the ~~mother~~ **person giving birth** was:

(a) Married at the time of birth, the name of ~~her~~ **the spouse of that person** must be entered on the certificate as the other parent of the child unless:

(1) A court has issued an order establishing that a person other than the ~~mother's~~ spouse **of the person giving birth** is the other parent of the child; or

(2) The ~~mother~~ **person giving birth** and a person other than the ~~mother's~~ spouse **of the person giving birth** have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285.

(b) Widowed at the time of birth but married at the time of conception, the name of ~~her~~ **the spouse of the person giving birth** at the time of conception must be entered on the certificate as the other parent of the child unless:

(1) A court has issued an order establishing that a person other than the ~~mother's~~ spouse **of the person giving birth** at the time of conception is the other parent of the child; or

(2) The ~~mother~~ **person giving birth** and a person other than the ~~mother's~~ spouse **of the person giving birth** at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285.

6. If the ~~mother~~ **person giving birth** was unmarried at the time of birth, the name of the other parent may be entered on the original certificate of birth only if:

- (a) The provisions of paragraph (b) of subsection 5 are applicable;
- (b) A court has issued an order establishing that the person is the other parent of the child; or
- (c) The parents of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285. If both parents execute a declaration consenting to the use of the surname of one parent as the surname of the child, the name of that parent must be entered on the original certificate of birth and the surname of that parent must be entered thereon as the surname of the child.

7. An order entered or a declaration executed pursuant to subsection 6 must be submitted to the local health officer, the local health officer's authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of either parent or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 1.9. NRS 440.283 is hereby amended to read as follows:

440.283 1. The Board shall:

(a) Develop a declaration to be signed under penalty of perjury for the voluntary acknowledgment of paternity in this State that complies with the requirements prescribed by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 652(a); and

(b) Distribute the declarations to:

(1) Each hospital ~~or freestanding birthing center~~ **or freestanding birthing center** in this State; and

(2) Any other entity authorized to provide services relating to the voluntary acknowledgment of paternity pursuant to the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

2. Subject to the provisions of subsection 3, the State Registrar of Vital Statistics and the entities described in paragraph (b) of subsection 1 shall offer to provide services relating to the voluntary acknowledgment of paternity in the manner prescribed in the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

3. Before providing a declaration for the acknowledgment of paternity to the ~~mother of~~ **person who gave birth to** a child or a person who wishes to

acknowledge the paternity of the child, the agencies described in paragraph (b) of subsection 1 shall ensure that the ~~{mother}~~ **person who gave birth** and the person who wishes to acknowledge paternity are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the declaration for the acknowledgment of paternity.

Sec. 2. NRS 440.285 is hereby amended to read as follows:

440.285 1. The Board shall:

(a) Develop a declaration to be signed under penalty of perjury for the voluntary acknowledgment of parentage in this State; and

(b) Distribute the declarations to each hospital ~~or~~ or ~~obstetric center or~~ **freestanding birthing center** in this State.

2. Before providing a declaration for the acknowledgment of parentage to the ~~{mother or}~~ **person who gave birth to** a child or a person who wishes to acknowledge the parentage of a child, the agencies described in paragraph (b) of subsection 1 shall ensure that the ~~{mother}~~ **person who gave birth** and the person who wishes to acknowledge parentage are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the declaration for the acknowledgment of parentage.

Sec. 2.3. NRS 440.287 is hereby amended to read as follows:

440.287 1. If a ~~{mother}~~ **person who has given birth** or a person who has signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285 with the ~~{mother}~~ **person who has given birth** rescinds the acknowledgment pursuant to subsection 2 of NRS 126.053, the State Registrar shall not issue a new certificate of birth to remove the name of the person who originally acknowledged paternity or parentage, as applicable, unless a court issues an order establishing that the person who acknowledged paternity or parentage, as applicable, is not the father or parent, as applicable, of the child.

2. As used in this section, “court” has the meaning ascribed to it in NRS 125B.004.

Sec. 2.6. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity or parentage of a child being established by the:

(a) ~~{Mother}~~ **Person who gave birth** and ~~{father}~~ **other parent** acknowledging paternity of a child by signing a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283;

(b) ~~{Mother}~~ **Person who gave birth** and another person acknowledging parentage of the child by signing a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285; or

(c) Order of a district court,

↪ the State Registrar, upon the receipt of the declaration or court order, shall prepare a new certificate of birth in the name of the child as shown in the declaration or order with no reference to the fact of legitimation.

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the declaration or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 2.9. NRS 440.610 is hereby amended to read as follows:

440.610 Each certificate, as provided for in this chapter, filed within 6 months after the time prescribed for their filing, shall be prima facie evidence of the facts therein stated. Data pertaining to the ~~father of~~ **parent who did not give birth to** a child is such evidence if the alleged ~~father~~ **parent** is, or becomes, the ~~husband~~ **spouse** of the ~~mother~~ **person who gave birth to the child** in a legal marriage; if not, the data pertaining to the ~~father of~~ **parent who did not give birth to** a child is not such evidence in any civil or criminal proceeding adverse to the interests of the alleged father, or of his heirs, devisees or other successors in interest, if the paternity is controverted.

Sec. 3. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.

2. “Department” means the Department of Health and Human Services.

3. “Director” means the Director of the Department.

4. “Division” means the Division of Public and Behavioral Health of the Department.

5. “Fetal alcohol syndrome” includes fetal alcohol effects.

6. **“Freestanding birthing center” has the meaning ascribed to it in section 11 of this act.**

7. “Laboratory” has the meaning ascribed to it in NRS 652.040.

~~{7}~~ 8. **“Midwife” means:**

(a) **A person certified as:**

(1) **A Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; or**

(2) **A Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; or**

(b) **Any other type of midwife.**

9. ~~“Obstetric center” has the meaning ascribed to it in NRS 449.0155.~~

~~8. 10.1~~ “Provider of health care or other services” means:

- (a) A clinical alcohol and drug counselor who is licensed, or an alcohol and drug counselor who is licensed or certified, pursuant to chapter 641C of NRS;
- (b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;
- (c) A licensed nurse;
- (d) A licensed psychologist;
- (e) A licensed marriage and family therapist;
- (f) A licensed clinical professional counselor;
- (g) A licensed social worker;
- (h) A licensed dietitian; or
- (i) The holder of a certificate of registration as a pharmacist.

Sec. 4. NRS 442.008 is hereby amended to read as follows:

442.008 1. The State Board of Health shall adopt regulations governing examinations and tests required for the discovery in infants of preventable or inheritable disorders, including tests for the presence of sickle cell disease and its variants and sickle cell trait.

2. Except as otherwise provided in this subsection, the examinations and tests required pursuant to subsection 1 must include tests and examinations for each disorder recommended to be screened by the Health Resources and Services Administration of the United States Department of Health and Human Services by not later than 4 years after the recommendation is published. The State Board may exclude any such disorder upon request of the Chief Medical Officer or the person in charge of the State Public Health Laboratory based on:

- (a) Insufficient funding to conduct testing for the disorder; or
- (b) Insufficient resources to address the results of the examination and test.

3. Any examination or test required by the regulations adopted pursuant to subsection 1 which must be performed by a laboratory must be sent to the State Public Health Laboratory. If the State Public Health Laboratory increases the amount charged for performing such an examination or test pursuant to NRS 439.240, the Division shall hold a public hearing during which the State Public Health Laboratory shall provide to the Division a written and verbal fiscal analysis of the reasons for the increased charges.

4. Except as otherwise provided in subsection 7, the regulations adopted pursuant to subsection 1 concerning tests for the presence of sickle cell disease and its variants and sickle cell trait must require the screening for sickle cell disease and its variants and sickle cell trait of:

(a) Each newborn child who is susceptible to sickle cell disease and its variants and sickle cell trait as determined by regulations of the State Board of Health; and

(b) Each biological parent of a child who wishes to undergo such screening.

5. Any physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital of any nature attending or assisting in any way any

infant, or the ~~mother of~~ **person who gave birth to** any infant, at childbirth shall:

(a) Make or cause to be made an examination of the infant, including standard tests that do not require laboratory services, to the extent required by regulations of the State Board of Health as is necessary for the discovery of conditions indicating such preventable or inheritable disorders.

(b) Collect and send to the State Public Health Laboratory or cause to be collected and sent to the State Public Health Laboratory any specimens needed for the examinations and tests that must be performed by a laboratory and are required by the regulations adopted pursuant to subsection 1.

6. If the examination and tests reveal the existence of such conditions in an infant, the physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital attending or assisting at the birth of the infant shall immediately:

(a) Report the condition to the Chief Medical Officer or the representative of the Chief Medical Officer, the local health officer of the county or city within which the infant or the ~~mother of~~ **person who gave birth to** the infant resides, and the local health officer of the county or city in which the child is born; and

(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.

7. An infant is exempt from examination and testing if either parent files a written objection with the person or institution responsible for making the examination or tests.

8. As used in this section, “sickle cell disease and its variants” has the meaning ascribed to it in NRS 439.4927.

Sec. 5. NRS 442.040 is hereby amended to read as follows:

442.040 1. Any physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital of any nature, parent, relative or person attending or assisting in any way any infant, or the ~~mother of~~ **person who gave birth to** any infant, at childbirth, or any time within 2 weeks after childbirth, knowing the condition defined in NRS 442.030 to exist, shall immediately report such fact in writing to the local health officer of the county, city or other political subdivision within which the infant or the ~~mother of~~ **person who gave birth to** any infant may reside.

2. Midwives shall immediately report conditions to some qualified practitioner of medicine and thereupon withdraw from the case except as they may act under the physician’s instructions.

3. On receipt of such report, the health officer, or the physician notified by a midwife, shall immediately give to the parents or persons having charge of such infant a warning of the dangers to the eye or eyes of the infant, and shall, for indigent cases, provide the necessary treatment at the expense of the county, city or other political subdivision.

Sec. 6. ~~NRS 442.110 is hereby amended to read as follows:~~

~~442.110 Any physician, midwife, nurse, manager or person in charge of an obstetric center, **freestanding birthing center** or hospital, parent, relative or person attending upon or assisting at the birth of an infant who violates any of the provisions of NRS 442.030 to 442.100, inclusive, shall be punished by a fine of not more than \$250. **(Deleted by amendment.)**~~

Sec. 6.3. NRS 442.130 is hereby amended to read as follows:

442.130 1. The Department is hereby designated as the agency of this State to administer, through the Division, a maternal and child health program, and to supervise the administration of those services included in the program which are not administered directly by it.

2. The purpose of such program shall be to develop, extend and improve health services, and to provide for development of demonstration services in needy areas for ~~mothers~~ **persons who are pregnant, are giving birth or have given birth** and children.

Sec. 6.7. NRS 442.137 is hereby amended to read as follows:

442.137 The purpose of the Advisory Board is to advise the Administrator of the Division concerning perinatal care to enhance the survivability and health of infants and ~~mothers~~ **persons who are pregnant, are giving birth and have given birth**, and concerning programs to improve the health of preschool children, to achieve the following objectives:

1. Ensuring the availability and accessibility of primary care health services;
2. Reducing the rate of infant mortality;
3. Reducing the incidence of preventable diseases and handicapping conditions among children;
4. Identifying the most effective methods of preventing fetal alcohol syndrome and collecting information relating to the incidence of fetal alcohol syndrome in this state;
5. Preventing the consumption of alcohol by women during pregnancy;
6. Reducing the need for inpatient and long-term care services;
7. Increasing the number of children who are appropriately immunized against disease;
8. Increasing the number of children from low-income families who are receiving assessments of their health;
9. Ensuring that services to follow up the assessments are available, accessible and affordable to children identified as in need of those services;
10. Assisting the Division in developing a program of public education that it is required to develop pursuant to NRS 442.385, including, without limitation, preparing and obtaining information relating to fetal alcohol syndrome;
11. Assisting the University of Nevada School of Medicine in reviewing, amending and distributing the guidelines it is required to develop pursuant to NRS 442.390; and

12. Promoting the health of infants and ~~{mothers}~~ *persons who are pregnant, are giving birth or have given birth* by ensuring the availability and accessibility of affordable perinatal services.

Sec. 7. ~~NRS 442.325 is hereby amended to read as follows:~~

~~442.325 1. Except as otherwise provided in subsection 2, the chief administrative officer of each hospital, [and] obstetric center and freestanding birthing center or a representative of the officer shall:~~

~~(a) Prepare and make available to the Chief Medical Officer or a representative of the Officer a list of:~~

~~(1) Patients who are under 7 years of age and have been diagnosed with one or more birth defects; and~~

~~(2) Patients discharged with adverse birth outcomes; and~~

~~(b) Make available to the Chief Medical Officer or a representative of the Officer the records of the hospital, [or] obstetric center or freestanding birthing center regarding:~~

~~(1) Patients who are under 7 years of age and have been diagnosed with one or more birth defects; and~~

~~(2) Patients discharged with adverse birth outcomes.~~

~~2. The name of a patient must be excluded from the information prepared and made available pursuant to subsection 1 if the patient or, if the patient is a minor, a parent or legal guardian of the patient has requested in writing to exclude the name of the patient from that information in the manner prescribed by the State Board of Health pursuant to NRS 442.320. The provisions of this subsection do not relieve the chief administrative officer of the duty of preparing and making available the information required by subsection 1.~~

~~3. The Chief Medical Officer or a representative of the Officer shall abstract from the records and lists required to be prepared and made available pursuant to this section such information as is required by the State Board of Health for inclusion in the system.~~

~~4. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.~~ **(Deleted by amendment.)**

Sec. 7.2. NRS 442.400 is hereby amended to read as follows:

442.400 The agency which provides child welfare services or a licensed child-placing agency shall inquire, during its initial contact with a natural parent of a child who is to be placed for adoption, about consumption of alcohol by or any substance use disorder of the ~~{mother of}~~ *person who gave birth* to the child during pregnancy. The information obtained from the inquiry must be:

1. Included in the report provided to the adopting parents of the child pursuant to NRS 127.152; and

2. Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 7.5. NRS 442.405 is hereby amended to read as follows:

442.405 1. The agency which provides child welfare services shall inquire, during its initial contact with a natural parent of a child who is to be placed in a family foster home, about consumption of alcohol by or any substance use disorder of the ~~mother of~~ **person who gave birth to** the child during pregnancy. The information obtained from the inquiry must be:

- (a) Provided to the provider of foster care pursuant to NRS 424.038; and
- (b) Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

2. As used in this section, “family foster home” has the meaning ascribed to it in NRS 424.013.

Sec. 7.7. NRS 442.410 is hereby amended to read as follows:

442.410 An agency which provides child welfare services shall inquire, during its initial contact with a natural parent of a child whom a court has determined must be kept in temporary or permanent custody, about consumption of alcohol by or any substance use disorder of the ~~mother of~~ **person who gave birth to** the child during pregnancy. The information obtained from the inquiry must be:

- 1. Included in the report the agency is required to make pursuant to NRS 432B.540; and
- 2. Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 8. ~~NRS 442.610 is hereby amended to read as follows:~~

~~442.610 “Provider of health care” means:~~

- ~~1. A provider of health care as defined in NRS 629.031;~~
- ~~2. A midwife; and~~
- ~~3. An obstetric center or freestanding birthing center licensed pursuant to chapter 449 of NRS.~~ **(Deleted by amendment.)**

Sec. 8.5. NRS 442.650 is hereby amended to read as follows:

442.650 A provider of health care who attends or assists at the delivery of a child shall, if the ~~mother~~ **person giving birth** has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, ensure that a rapid test for the human immunodeficiency virus is performed on the child unless a parent or legal guardian of the child objects to the performance of the test because it is contrary to the religious beliefs of the parent or legal guardian.

Sec. 9. ~~NRS 442.680 is hereby amended to read as follows:~~

~~442.680 1. Except as otherwise provided in subsection 3, any physician, midwife or nurse attending or assisting in any way any infant at childbirth at an obstetric center, a freestanding birthing center or a hospital which regularly offers obstetric services in the normal course of business and not only on an emergency basis shall make or cause to be made an examination of the infant, to determine whether the infant may suffer from critical congenital~~

~~heart disease, including, without limitation, conducting pulse oximetry screening. If the physician, midwife or nurse who conducts the examination is not the attending physician of the infant, the physician, midwife or nurse shall submit the results of the examination to the attending physician of the infant.~~

~~2. If the examination reveals that an infant may suffer from critical congenital heart disease, the attending physician of the infant shall conduct an examination to confirm whether the infant does suffer from critical congenital heart disease. If the attending physician determines that the infant suffers from critical congenital heart disease, the attending physician must:~~

~~(a) Report the condition to the Chief Medical Officer or a representative of the Chief Medical Officer; and~~

~~(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.~~

~~3. An examination of an infant is not required pursuant to this section if either parent files a written objection with the person responsible for conducting the examination or with the obstetric center, *freestanding birthing center* or hospital at which the infant is born.~~

~~4. The State Board of Health may adopt such regulations as necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 9.3. NRS 442.761 is hereby amended to read as follows:

442.761 “Severe maternal morbidity” means an unexpected incident during childbirth that has a serious negative effect on the short-term or long-term health of the ~~mother.~~ ***person who is giving birth or has given birth to a child.***

Sec. 9.7. NRS 442.774 is hereby amended to read as follows:

442.774 1. The Committee is entitled to access to:

(a) All final investigative information of law enforcement agencies regarding a maternal death or incident of severe maternal morbidity being investigated by the Committee for which the investigation by the law enforcement agency has been closed;

(b) Any autopsy and coroner’s investigative records relating to the death or incident;

(c) Any medical or mental health records of the ~~mother.~~ ***person who gave birth to a child;***

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the ~~mother.~~ ***person who gave birth to a child*** or the ~~mother’s~~ family ~~and~~ ***of the person who gave birth to a child; and***

(e) **The system for the reporting of information on cancer and other neoplasms established pursuant to NRS 457.230; and**

~~(f) Any other records determined by the Committee to be necessary to perform its duties, except for records of a law enforcement agency not described in paragraph (a).~~

2. The Committee may, if appropriate, meet and share information with:

(a) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475; or

(b) The Committee on Domestic Violence appointed pursuant to NRS 228.470.

3. The Committee may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers described in subsection 1 that are relevant to the cause of any death or incident of severe maternal morbidity being investigated by the Committee. Except as otherwise provided in NRS 239.0115, any books, records or papers received by the Committee pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

4. The Committee may use data collected concerning a maternal death or incident of severe maternal morbidity for the purpose of research or to prevent future maternal mortality and severe maternal morbidity if the data is aggregated and does not allow for the identification of any person.

5. Except as otherwise provided in this section, information acquired by, and the records of, the Committee are confidential, are not public records, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

6. The meetings of the Committee are closed to the public.

Sec. 10. ~~[Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.] (Deleted by amendment.)~~

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

“Freestanding birthing center” means a facility that provides maternity care and birthing services using a family-centered approach in which births are planned to occur in a location similar to a residence that is not the usual place of residence of the person giving birth to a child.

Sec. 12. ~~[1. The Board shall adopt:~~

~~— (a) Regulations providing for the licensure of freestanding birthing centers; and~~

~~— (b) Any other regulations necessary for the regulation of freestanding birthing centers.~~

~~2. Any regulations adopted pursuant to this section:~~

~~— (a) Must align with the standards established by the American Association of Birth Centers, or its successor organization, the accrediting body of the Commission for the Accreditation of Birth Centers, or its successor organization, or another nationally recognized organization for accrediting freestanding birthing centers; and~~

~~— (b) Must allow the provision of supervised training to providers of health care, as appropriate, at a freestanding birthing center.~~

~~3. A freestanding birthing center must be located within 30 miles of a hospital that offers obstetric, neonatal and emergency services relating to pregnancy.~~

~~4. Surgery, including, without limitation, the use of forceps, vacuum extractions, Caesarean sections and tubal ligations, must not be performed at a freestanding birthing center.~~ (Deleted by amendment.)

Sec. 13. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and section 11 of this act* have the meanings ascribed to them in those sections.

Sec. 13.5. NRS 449.0151 is hereby amended to read as follows:

449.0151 “Medical facility” includes:

1. A surgical center for ambulatory patients;
2. ~~[An obstetric center.]~~ A freestanding birthing center;
3. An independent center for emergency medical care;
4. An agency to provide nursing in the home;
5. A facility for intermediate care;
6. A facility for skilled nursing;
7. A facility for hospice care;
8. A hospital;
9. A psychiatric hospital;
10. A facility for the treatment of irreversible renal disease;
11. A rural clinic;
12. A nursing pool;
13. A facility for modified medical detoxification;
14. A facility for refractive surgery;
15. A mobile unit; and
16. A community triage center.

Sec. 14. ~~[NRS 449.0155 is hereby amended to read as follows:~~

~~449.0155 “Obstetric center” means a facility that is not part of a hospital and provides services for normal, uncomplicated births. The term does not include a freestanding birthing center.]~~ (Deleted by amendment.)

Sec. 15. ~~[NRS 449.029 is hereby amended to read as follows:~~

~~449.029 As used in NRS 449.029 to 449.240, inclusive, and section 12 of this act, unless the context otherwise requires, “medical facility” has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.]~~ (Deleted by amendment.)

Sec. 16. ~~[NRS 449.0301 is hereby amended to read as follows:~~

~~449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, and section 12 of this act do not apply to:~~

- ~~1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except~~

~~that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.~~

~~2. Foster homes as defined in NRS 424.014.~~

~~3. Any medical facility, facility for the dependent, [or] facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center that is operated and maintained by the United States Government or an agency thereof. (Deleted by amendment.)~~

Sec. 16.5. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.029 to 449.2428, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Regulations that prescribe the specific types of discrimination prohibited by NRS 449.101.

(f) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.029 to 449.2428, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

➔ which provide care to persons with Alzheimer's disease or other severe dementia, as described in paragraph (a) of subsection 2 of NRS 449.1845.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

- (a) Facilities that only provide a housing and living environment;
- (b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and
- (c) Facilities that provide or arrange for the provision of programs for alcohol and other substance use disorders, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

↪ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. The Board shall adopt regulations applicable to providers of community-based living arrangement services which:

(a) Except as otherwise provided in paragraph (b), require a natural person responsible for the operation of a provider of community-based living arrangement services and each employee of a provider of community-based living arrangement services who supervises or provides support to recipients of community-based living arrangement services to complete training concerning the provision of community-based living arrangement services to persons with mental illness and continuing education concerning the particular population served by the provider;

(b) Exempt a person licensed or certified pursuant to title 54 of NRS from the requirements prescribed pursuant to paragraph (a) if the Board determines that the person is required to receive training and continuing education substantially equivalent to that prescribed pursuant to that paragraph;

(c) Require a natural person responsible for the operation of a provider of community-based living arrangement services to receive training concerning the provisions of title 53 of NRS applicable to the provision of community-based living arrangement services; and

(d) Require an applicant for a license to provide community-based living arrangement services to post a surety bond in an amount equal to the operating expenses of the applicant for 2 months, place that amount in escrow or take another action prescribed by the Division to ensure that, if the applicant becomes insolvent, recipients of community-based living arrangement services from the applicant may continue to receive community-based living arrangement services for 2 months at the expense of the applicant.

12. **The Board shall adopt separate regulations governing the licensing and operation of freestanding birthing centers. Such regulations must:**

(a) Align with the standards established by the American Association of Birth Centers, or its successor organization, the accrediting body of the Commission for the Accreditation of Birth Centers, or its successor organization, or another nationally recognized organization for accrediting freestanding birthing centers; and

(b) Allow the provision of supervised training to providers of health care, as appropriate, at a freestanding birthing center.

13. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

Sec. 17. ~~[NRS 449.0307 is hereby amended to read as follows:~~

~~449.0307 The Division may:~~

~~1. Upon receipt of an application for a license, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies and purposes of any person proposing to engage in the operation of a medical facility, a facility for the dependent [or], a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed [.] or a freestanding birthing center. The facility is subject to inspection and approval as to standards for safety from fire, on behalf of the Division, by the State Fire Marshal.~~

~~2. Upon receipt of a complaint against a medical facility, facility for the dependent, [or] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed [.] or freestanding birthing center, except for a complaint concerning the cost of services, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies, procedures and records of that facility or any other medical facility, facility for the dependent, [or] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center which may have information pertinent to the complaint.~~

~~3. Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of NRS 449.029 to 449.245, inclusive [.] and section 12 of this act. (Deleted by amendment.)~~

Sec. 18. ~~[NRS 449.0308 is hereby amended to read as follows:~~

~~449.0308 1. Except as otherwise provided in this section, the Division may charge and collect from a medical facility, facility for the dependent, [or] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center or a person who operates such a facility without a license issued by the Division the actual costs incurred by the Division for the enforcement of the provisions of NRS 449.029 to 449.2428, inclusive, and section 12 of this act, including, without limitation, the actual cost of conducting an inspection or investigation of the facility.~~

~~2. The Division shall not charge and collect the actual cost for enforcement pursuant to subsection 1 if the enforcement activity is:~~

~~— (a) Related to the issuance or renewal of a license for which the Board charges a fee pursuant to NRS 449.050 or 449.089; or~~

~~— (b) Conducted pursuant to an agreement with the Federal Government which has appropriated money for that purpose.~~

~~— 3. Any money collected pursuant to subsection 1 may be used by the Division to administer and carry out the provisions of NRS 449.029 to 449.2428, inclusive, and section 12 of this act and the regulations adopted pursuant thereto.~~

~~— 4. The provisions of this section do not apply to any costs incurred by the Division for the enforcement of the provisions of NRS 449.24185, 449.2419 or 449.24195. (Deleted by amendment.)~~

Sec. 19. ~~[NRS 449.089 is hereby amended to read as follows:~~

~~449.089 1. Each license issued pursuant to NRS 449.029 to 449.2428, inclusive, and section 12 of this act expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:~~

~~— (a) Satisfactorily complied with the provisions of NRS 449.029 to 449.2428, inclusive, and section 12 of this act or the standards and regulations adopted by the Board;~~

~~— (b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or~~

~~— (c) Conformed to all applicable local zoning regulations.~~

~~— 2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a provider of community based living arrangement services, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv), a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a peer support recovery organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of alcohol or other substance use disorders must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.~~

~~— 3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a peer support recovery organization, a residential facility for groups or a home~~

~~for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093.] (Deleted by amendment.)~~

~~Sec. 20. [NRS 449.091 is hereby amended to read as follows:~~

~~449.091 1. The Division may cancel the license of a medical facility, facility for the dependent, [or a] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed *or freestanding birthing center* and issue a provisional license, effective for a period determined by the Division, to such a facility if it:~~

~~— (a) Is in operation at the time of the adoption of standards and regulations pursuant to the provisions of NRS 449.029 to 449.2428, inclusive, *and section 12 of this act* and the Division determines that the facility requires a reasonable time under the particular circumstances within which to comply with the standards and regulations; or~~

~~— (b) Has failed to comply with the standards or regulations and the Division determines that the facility is in the process of making the necessary changes or has agreed to make the changes within a reasonable time.~~

~~2. The provisions of subsection 1 do not require the issuance of a license or prevent the Division from refusing to renew or from revoking or suspending any license where the Division deems such action necessary for the health and safety of the occupants of any facility.] (Deleted by amendment.)~~

~~Sec. 21. [NRS 449.101 is hereby amended to read as follows:~~

~~449.101 1. A medical facility, facility for the dependent, [or] facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed *or freestanding birthing center* and any employee or independent contractor of such a facility shall not discriminate in the admission of, or the provision of services to, a patient or resident based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the patient or resident or any person with whom the patient or resident associates.~~

~~2. A medical facility, facility for the dependent, [or] facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed *or freestanding birthing center* shall:~~

~~— (a) Develop and carry out policies to prevent the specific types of prohibited discrimination described in the regulations adopted by the Board pursuant to NRS 449.0302 and meet any other requirements prescribed by regulations of the Board; and~~

~~— (b) Post prominently in the facility and include on any Internet website used to market the facility the following statement:~~

~~Name of facility does not discriminate and does not permit discrimination, including, without limitation, bullying, abuse or harassment, on the basis~~

~~of actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or HIV status, or based on association with another person on account of that person's actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or HIV status.~~

~~3. In addition to the statement prescribed by subsection 2, a facility for skilled nursing, facility for intermediate care or residential facility for groups shall post prominently in the facility and include on any Internet website used to market the facility:~~

~~(a) Notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division; and~~

~~(b) The contact information for the Division.~~

~~4. The provisions of this section shall not be construed to:~~

~~(a) Require a medical facility, facility for the dependent, [or] facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed *or freestanding birthing center* or an employee or independent contractor thereof to take or refrain from taking any action in violation of reasonable medical standards; or~~

~~(b) Prohibit a medical facility, facility for the dependent, [or] facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed *or freestanding birthing center* from adopting a policy that is applied uniformly and in a nondiscriminatory manner, including, without limitation, such a policy that bans or restricts sexual relations.~~

(Deleted by amendment.)

Sec. 22. NRS 449.102 is hereby amended to read as follows:

449.102 A medical facility, facility for the dependent ~~or~~ or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed ~~for freestanding birthing center~~ shall:

1. Maintain the confidentiality of personally identifiable information concerning the sexual orientation of a patient or resident, whether the patient or resident is transgender or has undergone ~~a gender transition~~ *gender-affirming surgery* and the human immunodeficiency virus status of the patient or resident and take reasonable actions to prevent the unauthorized disclosure of such information;

2. Prohibit employees or independent contractors of the facility who are not performing a physical examination or directly providing care to a patient or resident from being present during any portion of the physical examination or care, as applicable, during which the patient or resident is fully or partially unclothed without the express permission of the patient or resident or the authorized representative of the patient or resident;

3. Use visual barriers, including, without limitation, doors, curtains and screens, to provide privacy for patients or residents who are fully or partially unclothed; and

4. Allow a patient or resident to refuse to be examined, observed or treated by an employee or independent contractor of the facility for a purpose that is primarily educational rather than therapeutic.

Sec. 23. NRS 449.103 is hereby amended to read as follows:

449.103 1. To enable an agent or employee of a medical facility, facility for the dependent ~~ff~~ or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed ~~for freestanding birthing center~~ who provides care to a patient or resident of the facility to more effectively treat patients or care for residents, as applicable, the Board shall, by regulation, require such a facility to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who are:

- (a) From various ~~{gender,}~~ racial and ethnic backgrounds;
- (b) From various religious backgrounds;
- (c) ~~{Lesbian, gay, bisexual, transgender and questioning persons;}~~ ***Persons with various sexual orientations and gender identities or expressions;***
- (d) Children and senior citizens;
- (e) Persons with a mental or physical disability; and
- (f) Part of any other population that such an agent or employee may need to better understand, as determined by the Board.

2. The training relating specifically to cultural competency conducted by a medical facility, facility for the dependent ~~ff~~ or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed ~~for freestanding birthing center~~ pursuant to subsection 1 must be provided through a course or program that is approved by the Department of Health and Human Services.

~~**Sec. 24.** NRS 449.104 is hereby amended to read as follows:~~

~~449.104 The Board shall adopt regulations that require a medical facility, facility for the dependent , [or] facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center to:~~

- ~~1. Develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression;~~
- ~~2. Adapt electronic records to reflect the gender identities or expressions of patients or residents with diverse gender identities or expressions, including, without limitation:~~
 - ~~(a) If the facility is a medical facility, adapting health records to meet the medical needs of patients or residents with diverse sexual orientations and gender identities or expressions, including, without limitation, integrating information concerning sexual orientation and gender identity or expression into electronic systems for maintaining health records; and~~

~~— (b) If the facility is a facility for the dependent or other residential facility, adapting electronic records to include:~~

~~— (1) The preferred name and pronoun and gender identity or expression of a resident; and~~

~~— (2) Any other information prescribed by regulation of the Board.]~~
(Deleted by amendment.)

Sec. 25. ~~[NRS 449.132 is hereby amended to read as follows:~~

~~— 449.132 Every medical facility, facility for the dependent, [or] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center may be inspected at any time, with or without notice, as often as is necessary by:~~

~~— 1. The Division of Public and Behavioral Health to ensure compliance with all applicable regulations and standards; and~~

~~— 2. Any person designated by the Aging and Disability Services Division of the Department of Health and Human Services to investigate complaints made against the facility.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[NRS 449.160 is hereby amended to read as follows:~~

~~— 449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.2428, inclusive, and section 12 of this act upon any of the following grounds:~~

~~— (a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, and section 12 of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.~~

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

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

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

~~— (e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, and section 12 of this act, and 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.~~

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

~~— (g) Violation of the provisions of NRS 458.112.~~

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

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

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

~~— (e) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation;~~

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

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

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

~~— (c) A report of any disciplinary action taken against the facility;~~

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

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

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

~~— (b) Any disciplinary actions taken by the Division pursuant to subsection 2;~~

~~2. (Deleted by amendment.)~~

Sec. 27. [NRS 449.163 is hereby amended to read as follows:

~~449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent, [or] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0302 to be licensed or freestanding birthing center violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, and section 12 of this act, or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:~~

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

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

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

~~— (d) Impose an administrative penalty of not more than \$5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and~~

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

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

~~— (2) Improvements are made to correct the violation.~~

~~— 2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:~~

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

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

~~— 3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, and section 12 of this act, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.~~

~~— 4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, and section 12 of this act, 449.435 to 449.531, inclusive, and chapter 449A of NRS to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature. (Deleted by amendment.)~~

Sec. 28. [NRS 449.165 is hereby amended to read as follows:

~~— 449.165 The Board shall adopt regulations establishing the criteria for the imposition of each sanction prescribed by NRS 449.163. These regulations must:~~

~~— 1. Prescribe the circumstances and manner in which each sanction applies;~~

~~— 2. Minimize the time between identification of a violation and the imposition of a sanction;~~

~~— 3. Provide for the imposition of incrementally more severe sanctions for repeated or uncorrected violations;~~

~~— 4. Provide for less severe sanctions for lesser violations of applicable state statutes, conditions, standards or regulations; and~~

~~— 5. Establish an administrative penalty to be imposed if a violation by a medical facility, a facility for the dependent, [or] a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or a freestanding birthing center causes harm or the risk of harm to more than one person. (Deleted by amendment.)~~

Sec. 29. [NRS 449.171 is hereby amended to read as follows:

~~— 449.171 1. If the Division suspends the license of a medical facility, a facility for the dependent, [or] a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or a freestanding birthing center pursuant to the provisions of this chapter, or if a facility otherwise ceases to operate, including, without limitation, pursuant to an action or order of a health authority pursuant to chapter 441A of NRS, the~~

Division may, if deemed necessary by the Administrator of the Division, take control of and ensure the safety of the medical records of the facility.

~~2. Subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the Division shall:~~

~~(a) Maintain the confidentiality of the medical records obtained pursuant to subsection 1.~~

~~(b) Share medical records obtained pursuant to subsection 1 with law enforcement agencies in this State and other governmental entities which have authority to license the facility or to license the owners or employees of the facility.~~

~~(c) Release a medical record obtained pursuant to subsection 1 to the patient or legal guardian of the patient who is the subject of the medical record.~~

~~3. The Board shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations for contracting with a person to maintain any medical records under the control of the Division pursuant to subsection 1 and for payment by the facility of the cost of maintaining medical records. (Deleted by amendment.)~~

Sec. 29.5. NRS 449.198 is hereby amended to read as follows:

449.198 ~~An obstetric~~ **1. A freestanding birthing center must:**

~~1. (a) Provide sufficient space for members of the family of the pregnant woman~~ **(a) Provide sufficient space for members of the family of the pregnant person and other persons chosen by the pregnant person to assist her with the birth; and**

~~2. (b) Have obstetrical services available to meet the needs of an acute patient; and~~

(c) Be located within 30 miles of a hospital that offers obstetric, neonatal and emergency services relating to pregnancy.

2. Surgery, including, without limitation, the use of forceps, vacuum extractions, cesarean sections and tubal ligations, must not be performed at a freestanding birthing center.

3. A freestanding birthing center must have a director who is responsible for the operation of the freestanding birthing center. The director of a freestanding birthing center must be:

(a) A physician;

(b) A person certified as a Certified Professional Midwife by the North American Registry of Midwives, or its successor organization;

(c) A person who:

(1) Is certified as a Certified Midwife by the American Midwifery Certification Board, or its successor organization; and

(2) Has successfully completed a program of education and training in midwifery that:

(I) Is accredited by the Midwifery Education Accreditation Council, or its successor organization; and

(II) Provides instruction and training in the Essential Competencies for Midwifery Practice prescribed by the International Confederation of Midwives, or its successor organization; or

(d) A certified nurse-midwife.

4. As used in this section, “certified nurse-midwife” means a person who is:

(a) Certified as a Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; and

(b) Licensed as an advanced practice registered nurse pursuant to NRS 632.237.

~~Sec. 30. [NRS 449.209 is hereby amended to read as follows:~~

~~449.209 1. In addition to the requirements and prohibitions set forth in NRS 449.0305, and notwithstanding any exceptions set forth in that section, a licensed medical facility or an employee of such a medical facility shall not:~~

~~— (a) Refer a person to a residential facility for groups that is not licensed by the Division; or~~

~~— (b) Refer a person to a residential facility for groups if the licensed medical facility or its employee knows or reasonably should know that the residential facility for groups, or the services provided by the residential facility for groups, are not appropriate for the condition of the person being referred.~~

~~2. If a licensed medical facility or an employee of such a medical facility violates the provisions of subsection 1, the licensed medical facility is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 or more than \$20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the enforcement of this section and the protection of the health, safety, well being and property of residents of residential facilities for groups.~~

~~3. The Board shall:~~

~~— (a) Establish and maintain a system to track violations of this section and NRS 449.0305. Except as otherwise provided in this paragraph, records created by or for the system are public records and are available for public inspection. The following information is confidential:~~

~~— (1) Any personally identifying information relating to a person who is referred to a residential facility for groups.~~

~~— (2) Information which may not be disclosed under federal law.~~

~~— (b) Educate the public regarding the requirements and prohibitions set forth in this section and NRS 449.0305.~~

~~4. As used in this section, “licensed medical facility” means:~~

~~— (a) A medical facility that is required to be licensed pursuant to NRS 449.029 to 449.2428, inclusive [.] , and section 12 of this act.~~

~~— (b) A facility for the dependent that is required to be licensed pursuant to NRS 449.029 to 449.2428, inclusive [.] , and section 12 of this act.~~

~~— (c) A facility that provides medical care or treatment and is required by regulation of the Board to be licensed pursuant to NRS 449.0303.~~

~~—(d) A freestanding birthing center that is required to be licensed pursuant to NRS 449.029 to 449.2428, inclusive, and section 12 of this act. (Deleted by amendment.)~~

Sec. 31. ~~[NRS 449.210 is hereby amended to read as follows:~~

~~—449.210—1. In addition to the payment of the amount required by NRS 449.0308 and any civil penalty imposed pursuant to subsection 4, a person who operates a medical facility, facility for the dependent, [or] a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center without a license issued by the Division is guilty of a misdemeanor.~~

~~—2. If the Division believes that a person is operating a medical facility, facility for the dependent, [or] a facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center without such a license, the Division may issue an order to cease and desist the operation of the facility. The order must be served upon the person by personal delivery or by certified or registered mail, return receipt requested. The order is effective upon service.~~

~~—3. If a person does not voluntarily cease operating a medical facility, facility for the dependent, [or a] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center without a license or apply for licensure within 30 days after the date of service of the order pursuant to subsection 2, the Division may bring an action in a court of competent jurisdiction pursuant to NRS 449.220.~~

~~—4. Upon a showing by the Division that a person is operating a medical facility, facility for the dependent, [or a] facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed or freestanding birthing center without a license, a court of competent jurisdiction may:~~

~~—(a) Enjoin the person from operating the facility.~~

~~—(b) Impose a civil penalty on the operator to be recovered by the Division of not more than \$10,000 for the first offense or not less than \$10,000 or more than \$25,000 for a second or subsequent offense.~~

~~—5. Unless otherwise required by federal law, the Division shall deposit all civil penalties collected pursuant to paragraph (b) of subsection 4 into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, and sections 11 and 12 of this act and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards. (Deleted by amendment.)~~

Sec. 32. ~~[NRS 449.220 is hereby amended to read as follows:~~

~~—449.220—1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.029 to 449.2428, inclusive [;], and section 12 of this act:~~

~~—(a) Without first obtaining a license therefor; or~~

~~(b) After his or her license has been revoked or suspended by the Division.~~

~~2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license. (Deleted by amendment.)~~

~~Sec. 33. [NRS 449.240 is hereby amended to read as follows:~~

~~449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive [], and section 12 of this act. (Deleted by amendment.)~~

~~Sec. 33.5. NRS 449.245 is hereby amended to read as follows:~~

449.245 1. No hospital licensed under the provisions of NRS 449.029 to 449.2428, inclusive, may release from the hospital or otherwise surrender physical custody of any child under 6 months of age, whose living parent or guardian is known to the hospital, to any person other than a parent, guardian or relative by blood or marriage of that child, without a written authorization signed by a living parent, who must be the ~~mother~~ **person who gave birth to the child** if unwed, or guardian specifying the particular person or agency to whom the child may be released and the permanent address of that person or agency.

2. Upon the release or other surrender of physical custody of the child, the hospital shall require from the person to whom the child is released such reasonable proof of identity as the hospital may deem necessary for compliance with the provisions of this section. The hospital shall furnish a true copy of the written authorization to the Division of Child and Family Services of the Department of Health and Human Services before the release or other surrender by it of physical custody of the child. The copy must be furnished to the Division immediately upon receipt by the hospital.

3. Any person to whom any such child is released who thereafter surrenders physical custody of that child to any other person or agency shall, upon demand by the Division of Child and Family Services, disclose to the Division the name and permanent address of the person or agency to whom physical custody of the child was delivered.

4. Except as otherwise provided in NRS 239.0115, all information received by the Division of Child and Family Services pursuant to the provisions of this section is confidential and must be protected from disclosure in the same manner that information is protected under NRS 432.035.

5. Compliance with the provisions of this section is not a substitute for compliance with NRS 127.220 to 127.310, inclusive, governing placements for adoption and permanent free care.

6. A violation of any provision of this section is a misdemeanor.

~~Sec. 34. [NRS 449.246 is hereby amended to read as follows:~~

~~449.246 1. Before discharging an unmarried woman who has borne a child, a hospital, [or] obstetric center or freestanding birthing center shall provide to the child's parents:~~

- ~~— (a) The opportunity to sign, in the hospital, a declaration for the voluntary acknowledgment of paternity developed pursuant to NRS 440.283;~~
- ~~— (b) Written materials about establishing paternity;~~
- ~~— (c) The forms necessary to acknowledge paternity voluntarily;~~
- ~~— (d) A written description of the rights and responsibilities of acknowledging paternity; and~~
- ~~— (e) The opportunity to speak by telephone with personnel of the program for enforcement of child support who are trained to clarify information and answer questions about the establishment of paternity.~~

~~— 2. The Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services shall adopt the regulations necessary to ensure that the services provided by a hospital, [or] obstetric center *or freestanding birthing center* pursuant to this section are in compliance with the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).~~ **(Deleted by amendment.)**

Sec. 34.2. NRS 449A.001 is hereby amended to read as follows:

449A.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[449A.003]~~ **449A.007** to 449A.081, inclusive, have the meanings ascribed to them in those sections.

Sec. 34.5. NRS 449A.050 is hereby amended to read as follows:

449A.050 “Medical facility” ~~includes:~~

- ~~— 1. A surgical center for ambulatory patients;~~
- ~~— 2. An obstetric center;~~
- ~~— 3. An independent center for emergency medical care;~~
- ~~— 4. An agency to provide nursing in the home;~~
- ~~— 5. A facility for intermediate care;~~
- ~~— 6. A facility for skilled nursing;~~
- ~~— 7. A facility for hospice care;~~
- ~~— 8. A hospital;~~
- ~~— 9. A psychiatric hospital;~~
- ~~— 10. A facility for the treatment of irreversible renal disease;~~
- ~~— 11. A rural clinic;~~
- ~~— 12. A nursing pool;~~
- ~~— 13. A facility for modified medical detoxification;~~
- ~~— 14. A facility for refractive surgery;~~
- ~~— 15. A mobile unit; and~~
- ~~— 16. A community triage center.~~ **has the meaning ascribed to it in NRS 449.0151.**

Sec. 34.7. NRS 449A.114 is hereby amended to read as follows:

449A.114 1. Except as otherwise provided in subsection 2, before a facility for intermediate care, facility for skilled nursing or residential facility for groups transfers a patient to another medical facility or facility for the dependent or discharges the patient from the facility, the facility shall:

(a) At least 30 calendar days before transferring or discharging the patient, provide the patient and the Ombudsman with written notice of the intent to transfer or discharge the patient; and

(b) Within 10 calendar days after providing written notice to the patient and the Ombudsman pursuant to paragraph (a), allow the patient and any person authorized by the patient the opportunity to meet in person with the administrator of the facility to discuss the proposed transfer or discharge.

2. The provisions of this section do not apply to:

(a) A voluntary discharge or transfer of a patient to another medical facility or facility for the dependent at the request of the patient; or

(b) The transfer of a patient to another facility because the condition of the patient necessitates an immediate transfer to a facility for a higher level of care.

3. As used in this section ~~it is~~:

(a) “Facility for intermediate care” has the meaning ascribed to it in NRS 449.0038.

(b) “Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.

(c) “Ombudsman” means the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125.

(d) “Residential facility for groups” had the meaning ascribed to it in NRS 449.017.

Sec. 34.9. NRS 449A.218 is hereby amended to read as follows:

449A.218 “Facility” means a facility licensed pursuant to chapter 449 of NRS that is a psychiatric hospital, as defined in NRS 449.0165, or a unit of a hospital that is specifically designated to provide care and services to persons with psychiatric or developmental disabilities.

~~Sec. 35. NRS 449A.056 is hereby amended to read as follows:~~

~~449A.056 “Obstetric center” means a facility that is not part of a hospital and provides services for normal, uncomplicated births. has the meaning ascribed to it in NRS 449.0155. (Deleted by amendment.)~~

~~Sec. 36. Any valid license as an obstetric center issued ~~to a freestanding birthing center~~ before January 1, 2022, shall be deemed to be a license as a freestanding birthing center and remains valid until its date of expiration.~~

Sec. 36.3. The Legislative Counsel shall:

1. In preparing the Nevada Revises Statutes, use the authority set forth in subsection 10 of NRS 220.120 to substitute appropriately the term “freestanding birthing center” for the term “obstetric center” as previously used; and

2. In preparing supplements to the Nevada Administrative Code, substitute appropriately the term “freestanding birthing center” for the term “obstetric center” as previously used.

Sec. 36.5. The regulations adopted by the State Board of Health pursuant to NRS 439.200 and 449.0302 which are codified as NAC 449.6113 to 449.61178, inclusive, are hereby declared void. In preparing

the supplements to the Nevada Administrative Code on or after January 1, 2022, the Legislative Counsel shall remove those regulations.

Sec. 36.7. NRS 449.0155, 449A.003, 449A.005, 449A.009, 449A.011, 449A.013, 449A.015, 449A.019, 449A.021, 449A.023, 449A.025, 449A.027, 449A.029, 449A.033, 449A.035, 449A.037, 449A.039, 449A.041, 449A.043, 449A.047, 449A.052, 449A.054, 449A.056, 449A.058, 449A.060, 449A.062, 449A.066, 449A.068, 449A.073, 449A.075, 449A.077 and 449A.079 are hereby repealed.

Sec. 37. 1. This section becomes effective upon passage and approval.

2. Sections 1 to ~~36.1~~ 36.7, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

LEADLINES OF REPEALED SECTIONS

449.0155 “Obstetric center” defined.

449A.003 “Agency to provide nursing in the home” defined.

449A.005 “Agency to provide personal care services in the home” defined.

449A.009 “Community-based living arrangement services” defined.

449A.011 “Community health worker” defined.

449A.013 “Community health worker pool” defined.

449A.015 “Community triage center” defined.

449A.019 “Facility for hospice care” defined.

449A.021 “Facility for intermediate care” defined.

449A.023 “Facility for modified medical detoxification” defined.

449A.025 “Facility for refractive surgery” defined.

449A.027 “Facility for skilled nursing” defined.

449A.029 “Facility for the care of adults during the day” defined.

449A.033 “Facility for the treatment of alcohol or other substance use disorders” defined.

449A.035 “Facility for the treatment of irreversible renal disease” defined.

449A.037 “Facility for transitional living for released offenders” defined.

449A.039 “Halfway house for persons recovering from alcohol or other substance use disorders” defined.

449A.041 “Home for individual residential care” defined.

449A.043 “Hospice care” defined.

449A.047 “Independent center for emergency medical care” defined.

449A.052 “Mobile unit” defined.

449A.054 “Nursing pool” defined.

449A.056 “Obstetric center” defined.

449A.058 “Palliative services” defined.

449A.060 “Peer support recovery organization” defined.

449A.062 “Peer support services” defined.

449A.066 “Provider of supported living arrangement services” defined.

449A.068 “Psychiatric hospital” defined.

449A.073 “Residential facility for groups” defined.

449A.075 “Rural clinic” defined.

449A.077 “Supported living arrangement services” defined.

449A.079 “Surgical center for ambulatory patients” defined.

Assemblywoman Nguyen moved that the Assembly concur in the Senate Amendment No. 587 to Assembly Bill No. 287.

Remarks by Assemblywoman Nguyen.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 729.

AN ACT relating to health care; revising certain terminology relating to pregnancy and birth; providing for the licensing and regulation of freestanding birthing centers; requiring a freestanding birthing center to perform certain screening, report certain information to the local health officer and make certain information available to the Chief Medical Officer; authorizing the Maternal Mortality Review Committee to access certain information; eliminating the licensing and regulation of obstetric centers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a midwife to perform certain duties relating to the registration of a birth and the care of a person who is pregnant or a newborn infant. (NRS 440.280, 440.340, 440.740, 440.770, 442.008, 442.030-442.110, 442.600-442.680) **Sections 1.1 and 3** of this bill define the term “midwife” for those purposes to include a Certified Professional Midwife, a Certified Nurse-Midwife or any other type of midwife. **Sections 1.3-2.9, 4-9.7, 29.5 and 33.5** of this bill replace the term “mother” and similar terms with references to a person who is pregnant, a person giving birth, a person who gave birth or a person who has given birth, as appropriate, for purposes relating to vital statistics, maternal and child health and medical facilities and related entities. **Section 22** of this bill replaces the term “gender transition” with the term “gender-affirming surgery.” **Section 23** of this bill replaces a reference to lesbian, gay, bisexual, transgender and questioning persons with a reference to persons with various sexual orientations and gender identities and expressions.

Existing law: (1) defines the term “obstetric center” to mean a facility that is not part of a hospital and provides services for normal, uncomplicated births; and (2) provides for the regulation of an obstetric center as a medical facility. (NRS 449.0155, 449.0302) **Sections 1, 1.9, 2, 4, 5, 36.3 and 36.7** of this bill replace the term “obstetric center” with the term “freestanding birthing center.” **Sections 3 and 11** of this bill define the term “freestanding birthing

center” to mean a facility that provides maternity care and birthing services in a location similar to a residence. **Section 13** of this bill makes a conforming change to indicate the proper placement of **section 11** in the Nevada Revised Statutes. **Sections 13.5 and 34.5** of this bill require a freestanding birthing center to be licensed as a medical facility and comply with provisions governing medical facilities. **Section 36.5** of this bill declares existing regulations governing obstetric centers void, and **sections 16.5 and 36.5** of this bill require the State Board of Health to adopt specific regulations governing the licensure and operation of freestanding birthing centers. **Section 29.5** of this bill: (1) requires a freestanding birthing center to meet certain requirements currently applicable to obstetric centers; (2) requires a freestanding birthing center to be located within 30 miles of a hospital that offers services relating to pregnancy and newborn infants; (3) prohibits the performance of surgery at a freestanding birthing center; and (4) requires a freestanding birthing center to have a director who possesses certain qualifications. **Section 36.7** of this bill repeals certain unnecessary definitions, and **sections 34.2, 34.7 and 34.9** of this bill make conforming changes to add or remove references to those definitions.

Existing law: (1) requires the Maternal Mortality Review Committee to investigate each case of maternal mortality in this State; and (2) authorizes the Committee to access certain information in the performance of its duties. (NRS 442.767, 442.774) Existing law requires the Chief Medical Officer to establish and maintain a system for the reporting of information on cancer and other neoplasms. (NRS 457.230) **Section 9.7** of this bill authorizes the Committee to access information in that system.

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

Section 1. NRS 439.805 is hereby amended to read as follows:

439.805 “Medical facility” means:

1. A hospital, as that term is defined in NRS 449.012 and 449.0151;
2. ~~{An obstetric center,}~~ **A freestanding birthing center**, as that term is defined in ~~{NRS 449.0151 and 449.0155,}~~ **section 11 of this act**;
3. A surgical center for ambulatory patients, as that term is defined in NRS 449.0151 and 449.019; and
4. An independent center for emergency medical care, as that term is defined in NRS 449.013 and 449.0151.

Sec. 1.1. Chapter 440 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, “midwife” means:

1. A person certified as:

- (a) A Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; or*
- (b) A Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; or*

2. Any other type of midwife.

Sec. 1.3. NRS 440.030 is hereby amended to read as follows:

440.030 As used in this chapter, “live birth” means a birth in which the child shows evidence of life after complete birth. A birth is complete when the child is entirely outside the ~~mother,~~ **person giving birth**, even if the cord is uncut and the placenta still attached. The words “evidence of life” include heart action, breathing or coordinated movement of voluntary muscle.

Sec. 1.6. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the ~~mother,~~ **person giving birth** and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within

the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the ~~mother,~~ **person giving birth** and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The ~~father, mother,~~ **person giving birth** or ~~her,~~ **other parent, or** if the ~~father,~~ **other parent** is absent and the ~~mother,~~ **person giving birth** is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.

5. If the ~~mother,~~ **person giving birth** was:

(a) Married at the time of birth, the name of ~~her,~~ **the spouse of that person** must be entered on the certificate as the other parent of the child unless:

(1) A court has issued an order establishing that a person other than the ~~mother's~~ **spouse of the person giving birth** is the other parent of the child; or

(2) The ~~mother,~~ **person giving birth** and a person other than the ~~mother's~~ **spouse of the person giving birth** have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285.

(b) Widowed at the time of birth but married at the time of conception, the name of ~~her~~ *the spouse of the person giving birth* at the time of conception must be entered on the certificate as the other parent of the child unless:

(1) A court has issued an order establishing that a person other than the ~~mother's~~ spouse *of the person giving birth* at the time of conception is the other parent of the child; or

(2) The ~~mother~~ *person giving birth* and a person other than the ~~mother's~~ spouse *of the person giving birth* at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285.

6. If the ~~mother~~ *person giving birth* was unmarried at the time of birth, the name of the other parent may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) of subsection 5 are applicable;

(b) A court has issued an order establishing that the person is the other parent of the child; or

(c) The parents of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285. If both parents execute a declaration consenting to the use of the surname of one parent as the surname of the child, the name of that parent must be entered on the original certificate of birth and the surname of that parent must be entered thereon as the surname of the child.

7. An order entered or a declaration executed pursuant to subsection 6 must be submitted to the local health officer, the local health officer's authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of either parent or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 1.9. NRS 440.283 is hereby amended to read as follows:

440.283 1. The Board shall:

(a) Develop a declaration to be signed under penalty of perjury for the voluntary acknowledgment of paternity in this State that complies with the

requirements prescribed by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 652(a); and

(b) Distribute the declarations to:

(1) Each hospital or ~~obstetric center~~ **freestanding birthing center** in this State; and

(2) Any other entity authorized to provide services relating to the voluntary acknowledgment of paternity pursuant to the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

2. Subject to the provisions of subsection 3, the State Registrar of Vital Statistics and the entities described in paragraph (b) of subsection 1 shall offer to provide services relating to the voluntary acknowledgment of paternity in the manner prescribed in the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

3. Before providing a declaration for the acknowledgment of paternity to the ~~mother of~~ **person who gave birth to** a child or a person who wishes to acknowledge the paternity of the child, the agencies described in paragraph (b) of subsection 1 shall ensure that the ~~mother~~ **person who gave birth** and the person who wishes to acknowledge paternity are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the declaration for the acknowledgment of paternity.

Sec. 2. NRS 440.285 is hereby amended to read as follows:

440.285 1. The Board shall:

(a) Develop a declaration to be signed under penalty of perjury for the voluntary acknowledgment of parentage in this State; and

(b) Distribute the declarations to each hospital or ~~obstetric center~~ **freestanding birthing center** in this State.

2. Before providing a declaration for the acknowledgment of parentage to the ~~mother of~~ **person who gave birth to** a child or a person who wishes to acknowledge the parentage of a child, the agencies described in paragraph (b) of subsection 1 shall ensure that the ~~mother~~ **person who gave birth** and the person who wishes to acknowledge parentage are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the declaration for the acknowledgment of parentage.

Sec. 2.3. NRS 440.287 is hereby amended to read as follows:

440.287 1. If a ~~mother~~ **person who has given birth** or a person who has signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285 with the ~~mother~~ **person who has given birth** rescinds the acknowledgment pursuant to subsection 2 of NRS 126.053, the State Registrar shall not issue a new certificate of birth to remove the name of the person who originally acknowledged paternity or parentage, as applicable, unless a court issues an order establishing that the person who acknowledged paternity or parentage, as applicable, is not the father or parent, as applicable, of the child.

2. As used in this section, “court” has the meaning ascribed to it in NRS 125B.004.

Sec. 2.6. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity or parentage of a child being established by the:

(a) ~~mother~~ **Person who gave birth** and ~~father~~ **other parent** acknowledging paternity of a child by signing a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283;

(b) ~~mother~~ **Person who gave birth** and another person acknowledging parentage of the child by signing a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to NRS 440.285; or

(c) Order of a district court,
➔ the State Registrar, upon the receipt of the declaration or court order, shall prepare a new certificate of birth in the name of the child as shown in the declaration or order with no reference to the fact of legitimation.

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the declaration or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 2.9. NRS 440.610 is hereby amended to read as follows:

440.610 Each certificate, as provided for in this chapter, filed within 6 months after the time prescribed for their filing, shall be prima facie evidence of the facts therein stated. Data pertaining to the ~~father of~~ **parent who did not give birth to** a child is such evidence if the alleged ~~father~~ **parent** is, or becomes, the ~~husband~~ **spouse** of the ~~mother~~ **person who gave birth to the child** in a legal marriage; if not, the data pertaining to the ~~father of~~ **parent who did not give birth to** a child is not such evidence in any civil or criminal proceeding adverse to the interests of the alleged father, or of his heirs, devisees or other successors in interest, if the paternity is controverted.

Sec. 3. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.

2. “Department” means the Department of Health and Human Services.

3. “Director” means the Director of the Department.

4. “Division” means the Division of Public and Behavioral Health of the Department.

5. “Fetal alcohol syndrome” includes fetal alcohol effects.

6. ***“Freestanding birthing center” has the meaning ascribed to it in section 11 of this act.***

7. “Laboratory” has the meaning ascribed to it in NRS 652.040.

~~7.7~~ 8. ***“Midwife” means:***

(a) A person certified as:

(1) A Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; or

(2) A Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; or

(b) Any other type of midwife.

~~9. “Obstetric center” has the meaning ascribed to it in NRS 449.0155.~~

~~8.7~~ “Provider of health care or other services” means:

(a) A clinical alcohol and drug counselor who is licensed, or an alcohol and drug counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed clinical professional counselor;

(g) A licensed social worker;

(h) A licensed dietitian; or

(i) The holder of a certificate of registration as a pharmacist.

Sec. 4. NRS 442.008 is hereby amended to read as follows:

442.008 1. The State Board of Health shall adopt regulations governing examinations and tests required for the discovery in infants of preventable or inheritable disorders, including tests for the presence of sickle cell disease and its variants and sickle cell trait.

2. Except as otherwise provided in this subsection, the examinations and tests required pursuant to subsection 1 must include tests and examinations for each disorder recommended to be screened by the Health Resources and Services Administration of the United States Department of Health and Human Services by not later than 4 years after the recommendation is published. The State Board may exclude any such disorder upon request of the Chief Medical Officer or the person in charge of the State Public Health Laboratory based on:

(a) Insufficient funding to conduct testing for the disorder; or

(b) Insufficient resources to address the results of the examination and test.

3. Any examination or test required by the regulations adopted pursuant to subsection 1 which must be performed by a laboratory must be sent to the State Public Health Laboratory. If the State Public Health Laboratory increases the amount charged for performing such an examination or test pursuant to NRS

439.240, the Division shall hold a public hearing during which the State Public Health Laboratory shall provide to the Division a written and verbal fiscal analysis of the reasons for the increased charges.

4. Except as otherwise provided in subsection 7, the regulations adopted pursuant to subsection 1 concerning tests for the presence of sickle cell disease and its variants and sickle cell trait must require the screening for sickle cell disease and its variants and sickle cell trait of:

(a) Each newborn child who is susceptible to sickle cell disease and its variants and sickle cell trait as determined by regulations of the State Board of Health; and

(b) Each biological parent of a child who wishes to undergo such screening.

5. Any physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital of any nature attending or assisting in any way any infant, or the ~~mother of~~ **person who gave birth to** any infant, at childbirth shall:

(a) Make or cause to be made an examination of the infant, including standard tests that do not require laboratory services, to the extent required by regulations of the State Board of Health as is necessary for the discovery of conditions indicating such preventable or inheritable disorders.

(b) Collect and send to the State Public Health Laboratory or cause to be collected and sent to the State Public Health Laboratory any specimens needed for the examinations and tests that must be performed by a laboratory and are required by the regulations adopted pursuant to subsection 1.

6. If the examination and tests reveal the existence of such conditions in an infant, the physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital attending or assisting at the birth of the infant shall immediately:

(a) Report the condition to the Chief Medical Officer or the representative of the Chief Medical Officer, the local health officer of the county or city within which the infant or the ~~mother of~~ **person who gave birth to** the infant resides, and the local health officer of the county or city in which the child is born; and

(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.

7. An infant is exempt from examination and testing if either parent files a written objection with the person or institution responsible for making the examination or tests.

8. As used in this section, “sickle cell disease and its variants” has the meaning ascribed to it in NRS 439.4927.

Sec. 5. NRS 442.040 is hereby amended to read as follows:

442.040 1. Any physician, midwife, nurse, ~~obstetric center~~ **freestanding birthing center** or hospital of any nature, parent, relative or person attending or assisting in any way any infant, or the ~~mother of~~ **person who gave birth to** any infant, at childbirth, or any time within 2 weeks after childbirth, knowing the condition defined in NRS 442.030 to exist, shall

immediately report such fact in writing to the local health officer of the county, city or other political subdivision within which the infant or the ~~mother of~~ **person who gave birth to** any infant may reside.

2. Midwives shall immediately report conditions to some qualified practitioner of medicine and thereupon withdraw from the case except as they may act under the physician's instructions.

3. On receipt of such report, the health officer, or the physician notified by a midwife, shall immediately give to the parents or persons having charge of such infant a warning of the dangers to the eye or eyes of the infant, and shall, for indigent cases, provide the necessary treatment at the expense of the county, city or other political subdivision.

Sec. 6. (Deleted by amendment.)

Sec. 6.3. NRS 442.130 is hereby amended to read as follows:

442.130 1. The Department is hereby designated as the agency of this State to administer, through the Division, a maternal and child health program, and to supervise the administration of those services included in the program which are not administered directly by it.

2. The purpose of such program shall be to develop, extend and improve health services, and to provide for development of demonstration services in needy areas for ~~mothers,~~ **persons who are pregnant, are giving birth or have given birth** and children.

Sec. 6.7. NRS 442.137 is hereby amended to read as follows:

442.137 The purpose of the Advisory Board is to advise the Administrator of the Division concerning perinatal care to enhance the survivability and health of infants and ~~mothers,~~ **persons who are pregnant, are giving birth and have given birth,** and concerning programs to improve the health of preschool children, to achieve the following objectives:

1. Ensuring the availability and accessibility of primary care health services;

2. Reducing the rate of infant mortality;

3. Reducing the incidence of preventable diseases and handicapping conditions among children;

4. Identifying the most effective methods of preventing fetal alcohol syndrome and collecting information relating to the incidence of fetal alcohol syndrome in this state;

5. Preventing the consumption of alcohol by women during pregnancy;

6. Reducing the need for inpatient and long-term care services;

7. Increasing the number of children who are appropriately immunized against disease;

8. Increasing the number of children from low-income families who are receiving assessments of their health;

9. Ensuring that services to follow up the assessments are available, accessible and affordable to children identified as in need of those services;

10. Assisting the Division in developing a program of public education that it is required to develop pursuant to NRS 442.385, including, without

limitation, preparing and obtaining information relating to fetal alcohol syndrome;

11. Assisting the University of Nevada School of Medicine in reviewing, amending and distributing the guidelines it is required to develop pursuant to NRS 442.390; and

12. Promoting the health of infants and ~~mothers~~ **persons who are pregnant, are giving birth or have given birth** by ensuring the availability and accessibility of affordable perinatal services.

Sec. 7. (Deleted by amendment.)

Sec. 7.2. NRS 442.400 is hereby amended to read as follows:

442.400 The agency which provides child welfare services or a licensed child-placing agency shall inquire, during its initial contact with a natural parent of a child who is to be placed for adoption, about consumption of alcohol by or any substance use disorder of the ~~mother of~~ **person who gave birth to** the child during pregnancy. The information obtained from the inquiry must be:

1. Included in the report provided to the adopting parents of the child pursuant to NRS 127.152; and

2. Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 7.5. NRS 442.405 is hereby amended to read as follows:

442.405 1. The agency which provides child welfare services shall inquire, during its initial contact with a natural parent of a child who is to be placed in a family foster home, about consumption of alcohol by or any substance use disorder of the ~~mother of~~ **person who gave birth to** the child during pregnancy. The information obtained from the inquiry must be:

(a) Provided to the provider of foster care pursuant to NRS 424.038; and

(b) Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

2. As used in this section, “family foster home” has the meaning ascribed to it in NRS 424.013.

Sec. 7.7. NRS 442.410 is hereby amended to read as follows:

442.410 An agency which provides child welfare services shall inquire, during its initial contact with a natural parent of a child whom a court has determined must be kept in temporary or permanent custody, about consumption of alcohol by or any substance use disorder of the ~~mother of~~ **person who gave birth to** the child during pregnancy. The information obtained from the inquiry must be:

1. Included in the report the agency is required to make pursuant to NRS 432B.540; and

2. Reported to the Division on a form prescribed by the Division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 442.650 is hereby amended to read as follows:

442.650 A provider of health care who attends or assists at the delivery of a child shall, if the ~~mother~~ **person giving birth** has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, ensure that a rapid test for the human immunodeficiency virus is performed on the child unless a parent or legal guardian of the child objects to the performance of the test because it is contrary to the religious beliefs of the parent or legal guardian.

Sec. 9. (Deleted by amendment.)

Sec. 9.3. NRS 442.761 is hereby amended to read as follows:

442.761 “Severe maternal morbidity” means an unexpected incident during childbirth that has a serious negative effect on the short-term or long-term health of the ~~mother~~ **person who is giving birth or has given birth to a child.**

Sec. 9.7. NRS 442.774 is hereby amended to read as follows:

442.774 1. The Committee is entitled to access to:

(a) All final investigative information of law enforcement agencies regarding a maternal death or incident of severe maternal morbidity being investigated by the Committee for which the investigation by the law enforcement agency has been closed;

(b) Any autopsy and coroner’s investigative records relating to the death or incident;

(c) Any medical or mental health records of the ~~mother~~ **person who gave birth to a child;**

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the ~~mother~~ **person who gave birth to a child** or the ~~mother’s~~ family ~~of the person who gave birth to a child;~~ ~~and~~

(e) **The system for the reporting of information on cancer and other neoplasms established pursuant to NRS 457.230; and**

(f) Any other records determined by the Committee to be necessary to perform its duties, except for records of a law enforcement agency not described in paragraph (a).

2. The Committee may, if appropriate, meet and share information with:

(a) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored pursuant to NRS 217.475; or

(b) The Committee on Domestic Violence appointed pursuant to NRS 228.470.

3. The Committee may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers described in subsection 1 that are relevant to the cause of any death or incident of severe maternal morbidity being investigated by the Committee. Except as otherwise provided in NRS 239.0115, any books,

records or papers received by the Committee pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

4. The Committee may use data collected concerning a maternal death or incident of severe maternal morbidity for the purpose of research or to prevent future maternal mortality and severe maternal morbidity if the data is aggregated and does not allow for the identification of any person.

5. Except as otherwise provided in this section, information acquired by, and the records of, the Committee are confidential, are not public records, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

6. The meetings of the Committee are closed to the public.

Sec. 10. (Deleted by amendment.)

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

“Freestanding birthing center” means a facility that provides maternity care and birthing services using a family-centered approach in which births are planned to occur in a location similar to a residence that is not the usual place of residence of the person giving birth to a child.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, **and section 11 of this act** have the meanings ascribed to them in those sections.

Sec. 13.5. NRS 449.0151 is hereby amended to read as follows:

449.0151 “Medical facility” includes:

1. A surgical center for ambulatory patients;
2. ~~[An obstetric center;]~~ **A freestanding birthing center;**
3. An independent center for emergency medical care;
4. An agency to provide nursing in the home;
5. A facility for intermediate care;
6. A facility for skilled nursing;
7. A facility for hospice care;
8. A hospital;
9. A psychiatric hospital;
10. A facility for the treatment of irreversible renal disease;
11. A rural clinic;
12. A nursing pool;
13. A facility for modified medical detoxification;
14. A facility for refractive surgery;
15. A mobile unit; and
16. A community triage center.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 16.5. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.029 to 449.2428, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Regulations that prescribe the specific types of discrimination prohibited by NRS 449.101.

(f) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.029 to 449.2428, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↪ which provide care to persons with Alzheimer's disease or other severe dementia, as described in paragraph (a) of subsection 2 of NRS 449.1845.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential

facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) Except as otherwise authorized by the regulations adopted pursuant to NRS 449.0304, the prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of programs for alcohol and other substance use disorders, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➡ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. The Board shall adopt regulations applicable to providers of community-based living arrangement services which:

(a) Except as otherwise provided in paragraph (b), require a natural person responsible for the operation of a provider of community-based living arrangement services and each employee of a provider of community-based living arrangement services who supervises or provides support to recipients of community-based living arrangement services to complete training concerning the provision of community-based living arrangement services to persons with mental illness and continuing education concerning the particular population served by the provider;

(b) Exempt a person licensed or certified pursuant to title 54 of NRS from the requirements prescribed pursuant to paragraph (a) if the Board determines that the person is required to receive training and continuing education substantially equivalent to that prescribed pursuant to that paragraph;

(c) Require a natural person responsible for the operation of a provider of community-based living arrangement services to receive training concerning the provisions of title 53 of NRS applicable to the provision of community-based living arrangement services; and

(d) Require an applicant for a license to provide community-based living arrangement services to post a surety bond in an amount equal to the operating expenses of the applicant for 2 months, place that amount in escrow or take another action prescribed by the Division to ensure that, if the applicant becomes insolvent, recipients of community-based living arrangement services from the applicant may continue to receive community-based living arrangement services for 2 months at the expense of the applicant.

12. ***The Board shall adopt separate regulations governing the licensing and operation of freestanding birthing centers. Such regulations must:***

(a) Align with the standards established by the American Association of Birth Centers, or its successor organization, the accrediting body of the Commission for the Accreditation of Birth Centers, or its successor organization, or another nationally recognized organization for accrediting freestanding birthing centers; and

(b) Allow the provision of supervised training to providers of health care, as appropriate, at a freestanding birthing center.

13. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 449.102 is hereby amended to read as follows:

449.102 A medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed shall:

1. Maintain the confidentiality of personally identifiable information concerning the sexual orientation of a patient or resident, whether the patient or resident is transgender or has undergone ~~gender transition~~ **gender-affirming surgery** and the human immunodeficiency virus status of the patient or resident and take reasonable actions to prevent the unauthorized disclosure of such information;

2. Prohibit employees or independent contractors of the facility who are not performing a physical examination or directly providing care to a patient or resident from being present during any portion of the physical examination or care, as applicable, during which the patient or resident is fully or partially unclothed without the express permission of the patient or resident or the authorized representative of the patient or resident;

3. Use visual barriers, including, without limitation, doors, curtains and screens, to provide privacy for patients or residents who are fully or partially unclothed; and

4. Allow a patient or resident to refuse to be examined, observed or treated by an employee or independent contractor of the facility for a purpose that is primarily educational rather than therapeutic.

Sec. 23. NRS 449.103 is hereby amended to read as follows:

449.103 1. To enable an agent or employee of a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed who provides care to a patient or resident of the facility to more effectively treat patients or care for residents, as applicable, the Board shall, by regulation, require such a facility to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who are:

- (a) From various ~~gender~~ racial and ethnic backgrounds;
- (b) From various religious backgrounds;
- (c) ~~Lesbian, gay, bisexual, transgender and questioning persons;~~ **Persons with various sexual orientations and gender identities or expressions;**
- (d) Children and senior citizens;
- (e) Persons with a mental or physical disability; and
- (f) Part of any other population that such an agent or employee may need to better understand, as determined by the Board.

2. The training relating specifically to cultural competency conducted by a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed pursuant to subsection 1 must be provided through a course or program that is approved by the Department of Health and Human Services.

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 29.5. NRS 449.198 is hereby amended to read as follows:

449.198 ~~1. An obstetric~~ **1. A freestanding birthing** center must:

~~1.1~~ (a) Provide sufficient space for members of the family of the pregnant ~~woman~~ **person** and other persons chosen by the ~~woman~~ **pregnant person** to assist ~~her~~ with the birth; ~~and~~

~~2.1~~ (b) Have obstetrical services available to meet the needs of an acute patient ~~1.1~~; **and**

(c) *Be located within 30 miles of a hospital that offers obstetric, neonatal and emergency services relating to pregnancy.*

2. *Surgery, including, without limitation, the use of forceps, vacuum extractions, cesarean sections and tubal ligations, must not be performed at a freestanding birthing center.*

3. *A freestanding birthing center must have a director who is responsible for the operation of the freestanding birthing center. The director of a freestanding birthing center must be:*

(a) *A physician;*

(b) *A person who:*

(1) Is certified as a Certified Professional Midwife by the North American Registry of Midwives, or its successor organization;

~~1.1 (c) A person who:~~

~~*(1) Is certified as a Certified Midwife by the American Midwifery Certification Board, or its successor organization;*~~ **and**

(2) Has successfully completed a program of education and training in midwifery that:

(I) Is accredited by the Midwifery Education Accreditation Council, or its successor organization; and

(II) Provides instruction and training in the Essential Competencies for Midwifery Practice prescribed by the International Confederation of Midwives, or its successor organization; or

~~1.1 (d)~~ (c) *A certified nurse-midwife.*

4. *As used in this section, “certified nurse-midwife” means a person who is:*

(a) Certified as a Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; and

(b) Licensed as an advanced practice registered nurse pursuant to NRS 632.237.

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 33.5. NRS 449.245 is hereby amended to read as follows:

449.245 1. No hospital licensed under the provisions of NRS 449.029 to 449.2428, inclusive, may release from the hospital or otherwise surrender physical custody of any child under 6 months of age, whose living parent or guardian is known to the hospital, to any person other than a parent, guardian or relative by blood or marriage of that child, without a written authorization signed by a living parent, who must be the ~~mother~~ **person who gave birth to the child** if unwed, or guardian specifying the particular person or agency to whom the child may be released and the permanent address of that person or agency.

2. Upon the release or other surrender of physical custody of the child, the hospital shall require from the person to whom the child is released such reasonable proof of identity as the hospital may deem necessary for compliance with the provisions of this section. The hospital shall furnish a true copy of the written authorization to the Division of Child and Family Services of the Department of Health and Human Services before the release or other surrender by it of physical custody of the child. The copy must be furnished to the Division immediately upon receipt by the hospital.

3. Any person to whom any such child is released who thereafter surrenders physical custody of that child to any other person or agency shall, upon demand by the Division of Child and Family Services, disclose to the Division the name and permanent address of the person or agency to whom physical custody of the child was delivered.

4. Except as otherwise provided in NRS 239.0115, all information received by the Division of Child and Family Services pursuant to the provisions of this section is confidential and must be protected from disclosure in the same manner that information is protected under NRS 432.035.

5. Compliance with the provisions of this section is not a substitute for compliance with NRS 127.220 to 127.310, inclusive, governing placements for adoption and permanent free care.

6. A violation of any provision of this section is a misdemeanor.

Sec. 34. (Deleted by amendment.)

Sec. 34.2. NRS 449A.001 is hereby amended to read as follows:

449A.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~449A.003~~ **449A.007** to 449A.081, inclusive, have the meanings ascribed to them in those sections.

Sec. 34.5. NRS 449A.050 is hereby amended to read as follows:

449A.050 “Medical facility” ~~includes:~~

~~1. A surgical center for ambulatory patients;~~

- ~~2. An obstetric center;~~
- ~~3. An independent center for emergency medical care;~~
- ~~4. An agency to provide nursing in the home;~~
- ~~5. A facility for intermediate care;~~
- ~~6. A facility for skilled nursing;~~
- ~~7. A facility for hospice care;~~
- ~~8. A hospital;~~
- ~~9. A psychiatric hospital;~~
- ~~10. A facility for the treatment of irreversible renal disease;~~
- ~~11. A rural clinic;~~
- ~~12. A nursing pool;~~
- ~~13. A facility for modified medical detoxification;~~
- ~~14. A facility for refractive surgery;~~
- ~~15. A mobile unit; and~~
- ~~16. A community triage center.]~~ ***has the meaning ascribed to it in NRS***

449.0151.

Sec. 34.7. NRS 449A.114 is hereby amended to read as follows:

449A.114 1. Except as otherwise provided in subsection 2, before a facility for intermediate care, facility for skilled nursing or residential facility for groups transfers a patient to another medical facility or facility for the dependent or discharges the patient from the facility, the facility shall:

(a) At least 30 calendar days before transferring or discharging the patient, provide the patient and the Ombudsman with written notice of the intent to transfer or discharge the patient; and

(b) Within 10 calendar days after providing written notice to the patient and the Ombudsman pursuant to paragraph (a), allow the patient and any person authorized by the patient the opportunity to meet in person with the administrator of the facility to discuss the proposed transfer or discharge.

2. The provisions of this section do not apply to:

(a) A voluntary discharge or transfer of a patient to another medical facility or facility for the dependent at the request of the patient; or

(b) The transfer of a patient to another facility because the condition of the patient necessitates an immediate transfer to a facility for a higher level of care.

3. As used in this section ~~it~~ :

(a) ***“Facility for intermediate care” has the meaning ascribed to it in NRS 449.0038.***

(b) ***“Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.***

(c) “Ombudsman” means the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125.

(d) ***“Residential facility for groups” had the meaning ascribed to it in NRS 449.017.***

Sec. 34.9. NRS 449A.218 is hereby amended to read as follows:

449A.218 “Facility” means a facility licensed pursuant to chapter 449 of NRS that is a psychiatric hospital, ***as defined in NRS 449.0165***, or a unit of a

hospital that is specifically designated to provide care and services to persons with psychiatric or developmental disabilities.

Sec. 35. (Deleted by amendment.)

Sec. 36. Any valid license as an obstetric center issued before January 1, 2022, shall be deemed to be a license as a freestanding birthing center and remains valid until its date of expiration.

Sec. 36.3. The Legislative Counsel shall:

1. In preparing the Nevada Revises Statutes, use the authority set forth in subsection 10 of NRS 220.120 to substitute appropriately the term “freestanding birthing center” for the term “obstetric center” as previously used; and

2. In preparing supplements to the Nevada Administrative Code, substitute appropriately the term “freestanding birthing center” for the term “obstetric center” as previously used.

Sec. 36.5. The regulations adopted by the State Board of Health pursuant to NRS 439.200 and 449.0302 which are codified as NAC 449.6113 to 449.61178, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after January 1, 2022, the Legislative Counsel shall remove those regulations.

Sec. 36.7. NRS 449.0155, 449A.003, 449A.005, 449A.009, 449A.011, 449A.013, 449A.015, 449A.019, 449A.021, 449A.023, 449A.025, 449A.027, 449A.029, 449A.033, 449A.035, 449A.037, 449A.039, 449A.041, 449A.043, 449A.047, 449A.052, 449A.054, 449A.056, 449A.058, 449A.060, 449A.062, 449A.066, 449A.068, 449A.073, 449A.075, 449A.077 and 449A.079 are hereby repealed.

Sec. 37. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 36.7, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

LEADLINES OF REPEALED SECTIONS

449.0155 “Obstetric center” defined.

449A.003 “Agency to provide nursing in the home” defined.

449A.005 “Agency to provide personal care services in the home” defined.

449A.009 “Community-based living arrangement services” defined.

449A.011 “Community health worker” defined.

449A.013 “Community health worker pool” defined.

449A.015 “Community triage center” defined.

449A.019 “Facility for hospice care” defined.

449A.021 “Facility for intermediate care” defined.

449A.023 “Facility for modified medical detoxification” defined.

449A.025 “Facility for refractive surgery” defined.

- 449A.027 “Facility for skilled nursing” defined.
- 449A.029 “Facility for the care of adults during the day” defined.
- 449A.033 “Facility for the treatment of alcohol or other substance use disorders” defined.
- 449A.035 “Facility for the treatment of irreversible renal disease” defined.
- 449A.037 “Facility for transitional living for released offenders” defined.
- 449A.039 “Halfway house for persons recovering from alcohol or other substance use disorders” defined.
- 449A.041 “Home for individual residential care” defined.
- 449A.043 “Hospice care” defined.
- 449A.047 “Independent center for emergency medical care” defined.
- 449A.052 “Mobile unit” defined.
- 449A.054 “Nursing pool” defined.
- 449A.056 “Obstetric center” defined.
- 449A.058 “Palliative services” defined.
- 449A.060 “Peer support recovery organization” defined.
- 449A.062 “Peer support services” defined.
- 449A.066 “Provider of supported living arrangement services” defined.
- 449A.068 “Psychiatric hospital” defined.
- 449A.073 “Residential facility for groups” defined.
- 449A.075 “Rural clinic” defined.
- 449A.077 “Supported living arrangement services” defined.
- 449A.079 “Surgical center for ambulatory patients” defined.

Assemblywoman Nguyen moved that the Assembly concur in the Senate Amendment No. 729 to Assembly Bill No. 287.

Remarks by Assemblywoman Nguyen.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 345.

The following Senate amendment was read:

Amendment No. 584.

ASSEMBLYMAN ORENTLICHER

JOINT SPONSORS: SENATOR DONATE

AN ACT relating to drug paraphernalia; **providing that it is not unlawful to provide, administer or use a testing product for certain purposes; exempting a person or entity acting in good faith and with reasonable care from professional discipline and civil liability for providing, administering or using a testing product for those purposes;** excluding ~~fentanyl test strips~~ **testing products** from the list of drug paraphernalia that is prohibited for delivery, sale, possession, manufacture, advertising or use in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it a felony to deliver, sell, possess with intent to sell or manufacture with intent to deliver or sell drug paraphernalia when the person engaging in the delivery, sale, possession or manufacture knows or reasonably should know that the drug paraphernalia will be used as such. (NRS 453.560) Existing law further makes it a felony for a person to deliver drug paraphernalia to a minor who is at least 3 years younger than the person. (NRS 453.562) Existing law additionally makes it a misdemeanor to: (1) advertise drug paraphernalia in print where one knows or should know that the advertisement is for the purpose of promoting objects designed or intended for use as drug paraphernalia; (2) use drug paraphernalia as such; or (3) possess drug paraphernalia with the intent to use it as such. (NRS 453.564, 453.566) ~~[This]~~ **Section 1 of this bill provides that it is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds. Section 1 also exempts a person or entity who acts in good faith and with reasonable care in providing, administering or using a testing product for that purpose from professional discipline and civil liability. Section 2 of this bill excludes ~~[fentanyl test strips]~~ testing products** from the definition of the term “drug paraphernalia” for the purposes of those offenses. **Section 3 of this bill makes a conforming change to indicate the proper placement of section 1 in the Nevada Revised Statutes.**

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is not unlawful to provide, administer or use a testing product to assist a person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds.

2. A person or entity who, acting in good faith and with reasonable care, provides, administers or uses a testing product to assist another person in determining whether a controlled substance contains chemicals, toxic substances or hazardous compounds is immune from sanction under any professional licensing statute and civil liability for such an act.

3. As used in this section, “testing product” has the meaning ascribed to it in NRS 453.554.

~~[Section 1.]~~ **Sec. 2.** NRS 453.554 is hereby amended to read as follows:

453.554 1. Except as otherwise provided in subsection 2, as used in NRS 453.554 to 453.566, inclusive, **and section 1 of this act,** unless the context otherwise requires, “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or

otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment, ~~other than fentanyl test strips,~~ testing products, used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

(k) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(2) Water pipes;

(3) Smoking masks;

(4) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(5) Cocaine spoons and cocaine vials;

(6) Carburetor pipes and carburetion tubes and devices;

(7) Chamber pipes;

(8) Electric pipes;

(9) Air-driven pipes;

(10) Chillums;

(11) Bongs; and

(12) Ice pipes or chillers.

2. The term does not include ~~any~~ :

(a) Any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection ~~†~~; or

(b) ~~Fentanyl test strips~~. Testing products.

3. As used in this section ~~†~~ “fentanyl”:

(a) “Fentanyl test strip” means a strip used to rapidly test for the presence of fentanyl or other synthetic opiates.

(b) “Testing product” means a product, including, without limitation, a fentanyl test strip, that analyzes a controlled substance for the presence of adulterants.

Sec. 3. NRS 453C.150 is hereby amended to read as follows:

453C.150 1. Notwithstanding any other provision of law, a person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself, or who is the subject of a good faith request for such assistance may not be arrested, charged, prosecuted or convicted, or have his or her property subjected to forfeiture, or be otherwise penalized for violating:

(a) Except as otherwise provided in subsection 4, a provision of chapter 453 of NRS relating to:

(1) Drug paraphernalia, including, without limitation, NRS 453.554 to 453.566, inclusive ~~†~~, and section 1 of this act;

(2) Possession, unless it is for the purpose of sale or violates the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 or 453.3405; or

(3) Use of a controlled substance, including, without limitation, NRS 453.336;

(b) A local ordinance as described in NRS 453.3361 that establishes an offense that is similar to an offense set forth in NRS 453.336;

(c) A restraining order; or

(d) A condition of the person’s parole or probation,
→ if the evidence to support the arrest, charge, prosecution, conviction, seizure or penalty was obtained as a result of the person seeking medical assistance.

2. A court, before sentencing a person who has been convicted of a violation of chapter 453 of NRS for which immunity is not provided by this section, shall consider in mitigation any evidence or information that the defendant, in good faith, sought medical assistance for a person who was experiencing a drug or alcohol overdose or other life-threatening emergency in connection with the events that constituted the violation.

3. For the purposes of this section, a person seeks medical assistance if the person:

(a) Reports a drug or alcohol overdose or other medical emergency to a member of a law enforcement agency, a 911 emergency service, a poison control center, a medical facility or a provider of emergency medical services;

- (b) Assists another person making such a report;
- (c) Provides care to a person who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance; or
- (d) Delivers a person who is experiencing a drug or alcohol overdose or other medical emergency to a medical facility and notifies the appropriate authorities.

4. The provisions of this section do not prohibit any governmental entity from taking any actions required or authorized by chapter 432B of NRS relating to the abuse or neglect of a child.

5. As used in this section, “drug or alcohol overdose” means a condition, including, without limitation, extreme physical illness, a decreased level of consciousness, respiratory depression, coma, mania or death which is caused by the consumption or use of a controlled substance or alcohol, or another substance with which a controlled substance or alcohol was combined, or that an ordinary layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Nguyen moved that the Assembly concur in the Senate Amendment No. 584 to Assembly Bill No. 345.

Remarks by Assemblywoman Nguyen.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 139, 143, 254, 258, 261, 278, 302, 304, 307, 316, 318, 325, 336, 344, 348, 360, 362, 378, 390, 397, 398, 409, 414, 421, 430, 435, 450, 452, 476; Assembly Joint Resolution No. 3; Senate Bills Nos. 84, 102, 107, 112, 138, 141, 145, 151, 168, 172, 184, 193, 204, 247, 251, 259, 268, 284, 285, 289, 303, 305, 309, 311, 357, 362, 363, 364, 368, 370, 371, 372, 376, 379, 398, 400, 408.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:57 p.m.

ASSEMBLY IN SESSION

At 1:58 p.m.

Mr. Speaker presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 96.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 274.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 291.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 347.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 366.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 390.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 420.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 445.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 454.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Senate Bill No. 27.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 416.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 455.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 489—AN ACT making appropriations to the Legislative Fund for capital improvement projects and dues for national and regional organizations; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 9.

Assemblywoman Peters moved the adoption of the resolution.

Resolution adopted.

Senate Concurrent Resolution No. 14.

Assemblyman Flores moved the adoption of the resolution.

Remarks by Assemblyman Flores.

ASSEMBLYMAN FLORES:

Senate Concurrent Resolution 14 memorializes former District Court Judge Don Chairez. I had the privilege of meeting Don Chairez when I was, I think, 14 or 15 years old after my father had met him. My father met a Latino attorney for the first time and he spoke with him and said, “My son is interested in becoming an attorney.” The very next week, 14- or 15-year-old me had the opportunity to sit with him for five or six hours in his office. He showed me how to prep a file, how to speak to clients. He talked to me about what it was like for a Latino to navigate through a world that Latinos were often not a part of. He gave me a lot of very meaningful advice, advice that I carry with me to this day.

I just wanted to rise in support of this Senate Concurrent Resolution. He was a great mentor to me, a great friend, and I know that was true for a lot of other young Brown kids who never had the opportunity to look up to an attorney and see a man who was doing something that we all wanted to do. I know he has won a bunch of awards, but for me personally, there is advice I carry with me today thanks to that conversation he had with me when I was 14 or 15 years old.

Resolution adopted.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 40, 189, 484, and 487; Senate Bills Nos. 34, 295, 438, and 443 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REMARKS FROM THE FLOOR

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Wednesday, May 26, 2021, at 12 noon.

Motion carried.

Assembly adjourned at 2:14 p.m.

Approved:

JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly