

SENATE BILL NO. 128—SENATORS SEEVERS GANSERT,
GOICOECHEA, TITUS, BUCK, HANSEN; HAMMOND,
KRASNER AND STONE

FEBRUARY 9, 2023

JOINT SPONSOR: ASSEMBLYWOMAN HANSEN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to fentanyl and certain related opioids. (BDR 40-544)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to controlled substances; establishing the crimes of low-level, mid-level and high-level trafficking in fentanyl and certain related opioids; revising the penalty for possession for the purpose of sale of fentanyl and certain related opioids; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or is knowingly or intentionally in actual or constructive possession of a schedule I controlled substance, other than marijuana, a schedule II controlled substance or certain other controlled substances is guilty of: (1) low-level trafficking if the quantity of the controlled substance is 100 grams or more, but less than 400 grams; and (2) high-level trafficking if the quantity of the controlled substance is 400 grams or more. A person who commits the crime of: (1) low-level trafficking is guilty of a category B felony and subject to certain prescribed penalties; and (2) high-level trafficking is guilty of a category A felony and subject to certain prescribed penalties. (NRS 453.3385)

Existing regulations of the State Board of Pharmacy include fentanyl and certain related opioids in the list of controlled substances in schedules I and II. (NAC 453.510, 453.520) **Section 8** of this bill excludes fentanyl, carfentanil, any benzimidazole opiate and any mixture which contains any such controlled substance from the controlled substances to which the provisions governing the crimes of low-level trafficking and high-level trafficking apply. **Section 1** of this bill instead establishes the crimes of low-level trafficking, mid-level trafficking and



high-level trafficking in fentanyl, carfentanil, any benzimidazole opiate and any mixture which contains any such controlled substance. Under **section 1**, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or is knowingly or intentionally in actual or constructive possession of fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance is guilty of: (1) low-level trafficking if the quantity involved is 4 milligrams or more, but less than 6 milligrams; (2) mid-level trafficking if the quantity involved is 6 milligrams or more, but less than 8 milligrams; and (3) high-level trafficking if the quantity involved is 8 milligrams or more. Under **section 1**, a person who commits the crime of: (1) low-level or mid-level trafficking is guilty of a category B felony and subject to certain prescribed penalties; and (2) high-level trafficking is guilty of a category A felony and subject to certain prescribed penalties.

Sections 2, 5 and 6 of this bill provide that a person found guilty of trafficking in fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance is subject to the penalties prescribed by section 1 for that crime, even where certain crimes with lesser penalties also apply.

Sections 3, 4, 7 and 9-13 of this bill add references to **section 1** so that the crimes of low-level, mid-level and high-level trafficking in fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance are treated the same as the crimes of low-level and high-level trafficking of certain other controlled substances listed in schedule I or II.

Existing law provides that, unless a greater penalty applies, a person who possesses for the purpose of sale any controlled substance classified in schedule I or II is guilty of: (1) a category D felony for the first offense; (2) a category C felony for the second offense; and (3) a category B felony for a third or subsequent offense. (NRS 453.337) **Section 6** of this bill instead provides that, unless a greater penalty applies, a person who possesses for the purpose of sale fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance is guilty of a category C felony. **Section 6** also prohibits a court from granting probation to or suspending the sentence of a person convicted of unlawful possession for the purpose of sale of fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance.

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:

Except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity involved:

1. Is 4 milligrams or more, but less than 6 milligrams, is guilty of low-level trafficking and shall be punished for a category B felony by imprisonment in the state prison for a minimum term



1 of not less than 2 years and a maximum term of not more than 20
2 years and by a fine of not more than \$100,000.

3 2. Is 6 milligrams or more, but less than 8 milligrams, is
4 guilty of mid-level trafficking and shall be punished for a category
5 B felony by imprisonment in the state prison for a minimum term
6 of not less than 4 years and a maximum term of not more than 20
7 years and by a fine of not more than \$250,000.

8 3. Is 8 milligrams or more, is guilty of high-level trafficking
9 and shall be punished for a category A felony by imprisonment in
10 the state prison:

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

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

15 ➔ and by a fine of not more than \$500,000.

16 **Sec. 2.** NRS 453.322 is hereby amended to read as follows:

17 453.322 1. Except as authorized by the provisions of NRS
18 453.011 to 453.552, inclusive, it is unlawful for a person to
19 knowingly or intentionally:

20 (a) Manufacture or compound a controlled substance other than
21 marijuana.

22 (b) Possess, with the intent to manufacture or compound a
23 controlled substance other than marijuana, or sell, exchange, barter,
24 supply, prescribe, dispense or give away, with the intent that the
25 chemical be used to manufacture or compound a controlled
26 substance other than marijuana:

27 (1) Any chemical identified in subsection 5; or

28 (2) Any other chemical which is proven by expert testimony
29 to be commonly used in manufacturing or compounding a controlled
30 substance other than marijuana. The district attorney may present
31 expert testimony to provide a prima facie case that any chemical,
32 whether or not it is a chemical identified in subsection 5, is
33 commonly used in manufacturing or compounding such a controlled
34 substance.

35 ➔ The provisions of this paragraph do not apply to a person who,
36 without the intent to commit an unlawful act, possesses any
37 chemical at a laboratory that is licensed to store the chemical.

38 (c) Offer or attempt to do any act set forth in paragraph (a) or
39 (b).

40 2. Unless a greater penalty is provided in subsection 3 or NRS
41 453.3385, **or section 1 of this act**, a person who violates any
42 provision of subsection 1 is guilty of a category B felony and shall
43 be punished by imprisonment in the state prison for a minimum
44 term of not less than 3 years and a maximum term of not more than



1 15 years, and may be further punished by a fine of not more than
2 \$100,000.

3 3. If a person violates any provision of subsection 1 by
4 engaging in the manufacturing or compounding of a controlled
5 substance other than marijuana, or by attempting to do so, and the
6 violation causes a fire or explosion, the person is guilty of a
7 category B felony and shall be punished by imprisonment in the
8 state prison for a minimum term of not less than 3 years and a
9 maximum term of not more than 20 years, and may be further
10 punished by a fine of not more than \$100,000.

11 4. The court shall not grant probation to a person convicted
12 pursuant to this section.

13 5. The following chemicals are identified for the purposes of
14 subsection 1:

- 15 (a) Acetic anhydride.
- 16 (b) Acetone.
- 17 (c) N-Acetylanthranilic acid, its esters and its salts.
- 18 (d) Anthranilic acid, its esters and its salts.
- 19 (e) Benzaldehyde, its salts, isomers and salts of isomers.
- 20 (f) Benzyl chloride.
- 21 (g) Benzyl cyanide.
- 22 (h) 1,4-Butanediol.
- 23 (i) 2-Butanone (or methyl ethyl ketone or MEK).
- 24 (j) Ephedrine, its salts, isomers and salts of isomers.
- 25 (k) Ergonovine and its salts.
- 26 (l) Ergotamine and its salts.
- 27 (m) Ethylamine, its salts, isomers and salts of isomers.
- 28 (n) Ethyl ether.
- 29 (o) Gamma butyrolactone.
- 30 (p) Hydriodic acid, its salts, isomers and salts of isomers.
- 31 (q) Hydrochloric gas.
- 32 (r) Iodine.
- 33 (s) Isosafrole, its salts, isomers and salts of isomers.
- 34 (t) Lithium metal.
- 35 (u) Methylamine, its salts, isomers and salts of isomers.
- 36 (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- 37 (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- 38 (x) Methyl isobutyl ketone (MIBK).
- 39 (y) N-Methylpseudoephedrine, its salts, isomers and salts of
40 isomers.
- 41 (z) Nitroethane, its salts, isomers and salts of isomers.
- 42 (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- 43 (bb) Phenylacetic acid, its esters and its salts.
- 44 (cc) Phenylpropanolamine, its salts, isomers and salts of
45 isomers.



- (dd) Piperidine and its salts.
- (ee) Piperonal, its salts, isomers and salts of isomers.
- (ff) Potassium permanganate.
- (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- (ii) Red phosphorous.
- (jj) Safrole, its salts, isomers and salts of isomers.
- (kk) Sodium metal.
- (ll) Sulfuric acid.
- (mm) Toluene.

Sec. 3. NRS 453.333 is hereby amended to read as follows:

453.333 If the death of a person is proximately caused by a controlled substance which was sold, given, traded or otherwise made available to him or her by another person in violation of this chapter, the person who sold, gave or traded or otherwise made the substance available to him or her is guilty of murder. If convicted of murder in the second degree, the person is guilty of a category A felony and shall be punished as provided in subsection 5 of NRS 200.030. If convicted of murder in the first degree, the person is guilty of a category A felony and shall be punished as provided in subsection 4 of NRS 200.030, except that the punishment of death may be imposed only if the requirements of paragraph (a) of subsection 4 of that section have been met and if the defendant is or has previously been convicted of violating NRS 453.3385 or 453.339 **or section 1 of this act** or a law of any other jurisdiction which prohibits the same conduct.

Sec. 4. NRS 453.3353 is hereby amended to read as follows:

453.3353 1. Unless a greater penalty is provided by law, and except as otherwise provided in this section and NRS 193.169, if:

(a) A person violates NRS 453.322 or 453.3385, **or section 1 of this act**, and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and

(b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded, another person suffers substantial bodily harm other than death as the proximate result of the manufacturing or compounding of the controlled substance,

↪ the person who committed the offense shall be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment prescribed by statute for the offense. The sentence prescribed by this subsection runs consecutively with the sentence prescribed by statute for the offense.

2. Unless a greater penalty is provided by law, and except as otherwise provided in NRS 193.169, if:



(a) A person violates NRS 453.322 or 453.3385, **or section 1 of this act**, and the violation involves the manufacturing or compounding of any controlled substance other than marijuana; and

(b) During the discovery or cleanup of the premises at, on or in which the controlled substance was manufactured or compounded, another person suffers death as the proximate result of the manufacturing or compounding of the controlled substance,

➤ the offense shall be deemed a category A felony and the person who committed the offense shall be punished by imprisonment in the state prison:

(1) For life without the possibility of parole;

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

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

3. Subsection 1 does not create a separate offense but provides an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection 2 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

4. As used in this section:

(a) "Marijuana" does not include concentrated cannabis.

(b) "Premises" means:

(1) Any temporary or permanent structure, including, without limitation, any building, house, room, apartment, tenement, shed, carport, garage, shop, warehouse, store, mill, barn, stable, outhouse or tent; or

(2) Any conveyance, including, without limitation, any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home or railroad car,

➤ whether located aboveground or underground and whether inhabited or not.

Sec. 5. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection 6, 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, 4 and 5 and in NRS 453.3363, and unless a greater penalty is provided in



1 NRS 212.160, 453.3385 or 453.339, *or section 1 of this act*, a
2 person who violates this section:

3 (a) For a first or second offense, if the controlled substance is
4 listed in schedule I or II and the quantity possessed is less than 14
5 grams, or if the controlled substance is listed in schedule III, IV or V
6 and the quantity possessed is less than 28 grams, is guilty of
7 possession of a controlled substance and shall be punished for a
8 category E felony as provided in NRS 193.130. In accordance with
9 NRS 176.211, the court shall defer judgment upon the consent of the
10 person.

11 (b) For a third or subsequent offense, if the controlled substance
12 is listed in schedule I or II and the quantity possessed is less than 14
13 grams, or if the controlled substance is listed in schedule III, IV or V
14 and the quantity possessed is less than 28 grams, or if the offender
15 has previously been convicted two or more times in the aggregate of
16 any violation of the law of the United States or of any state, territory
17 or district relating to a controlled substance, is guilty of possession
18 of a controlled substance and shall be punished for a category D
19 felony as provided in NRS 193.130, and may be further punished by
20 a fine of not more than \$20,000.

21 (c) If the controlled substance is listed in schedule I or II and the
22 quantity possessed is 14 grams or more, but less than 28 grams, or if
23 the controlled substance is listed in schedule III, IV or V and the
24 quantity possessed is 28 grams or more, but less than 200 grams, is
25 guilty of low-level possession of a controlled substance and shall be
26 punished for a category C felony as provided in NRS 193.130.

27 (d) If the controlled substance is listed in schedule I or II and the
28 quantity possessed is 28 grams or more, but less than 42 grams, or if
29 the controlled substance is listed in schedule III, IV or V and the
30 quantity possessed is 200 grams or more, is guilty of mid-level
31 possession of a controlled substance and shall be punished for a
32 category B felony by imprisonment in the state prison for a
33 minimum term of not less than 1 year and a maximum term of not
34 more than 10 years and by a fine of not more than \$50,000.

35 (e) If the controlled substance is listed in schedule I or II and the
36 quantity possessed is 42 grams or more, but less than 100 grams, is
37 guilty of high-level possession of a controlled substance and shall be
38 punished for a category B felony by imprisonment in the state prison
39 for a minimum term of not less than 2 years and a maximum term of
40 not more than 15 years and by a fine of not more than \$50,000.

41 3. Unless a greater penalty is provided in NRS 212.160,
42 453.337 or 453.3385, a person who is convicted of the possession of
43 flunitrazepam or gamma-hydroxybutyrate, or any substance for
44 which flunitrazepam or gamma-hydroxybutyrate is an immediate
45 precursor, is guilty of a category B felony and shall be punished by



1 imprisonment in the state prison for a minimum term of not less
2 than 1 year and a maximum term of not more than 6 years.

3 4. Unless a greater penalty is provided pursuant to NRS
4 212.160, a person who is convicted of the possession of 1 ounce or
5 less of marijuana is guilty of a misdemeanor and shall be punished
6 by:

7 (a) Performing not more than 24 hours of community service;

8 (b) Attending the live meeting described in paragraph (a) of
9 subsection 2 of NRS 484C.530 and complying with any other
10 requirements set forth in that section; or

11 (c) Being required to undergo an evaluation in accordance with
12 subsection 1 of NRS 484C.350,

13 ↪ or any combination thereof.

14 5. Unless a greater penalty is provided pursuant to NRS
15 212.160, a person who is convicted of the possession of more than 1
16 ounce, but less than 50 pounds, of marijuana or more than one-
17 eighth of an ounce, but less than one pound, of concentrated
18 cannabis is guilty of a category E felony and shall be punished as
19 provided in NRS 193.130.

20 6. It is not a violation of this section if a person possesses a
21 trace amount of a controlled substance and that trace amount is in or
22 on a hypodermic device obtained from a sterile hypodermic device
23 program pursuant to NRS 439.985 to 439.994, inclusive.

24 7. The court may grant probation to or suspend the sentence of
25 a person convicted of violating this section.

26 8. If a person fulfills the terms and conditions imposed for a
27 violation of subsection 4, the court shall, without a hearing, order
28 sealed all documents, papers and exhibits in that person's record,
29 minute book entries and entries on dockets, and other documents
30 relating to the case in the custody of such other agencies and
31 officers as are named in the court's order. The court shall cause a
32 copy of the order to be sent to each agency or officer named in the
33 order. Each such agency or officer shall notify the court in writing
34 of its compliance with the order.

35 9. As used in this section:

36 (a) "Controlled substance" includes flunitrazepam, gamma-
37 hydroxybutyrate and each substance for which flunitrazepam or
38 gamma-hydroxybutyrate is an immediate precursor.

39 (b) "Marijuana" does not include concentrated cannabis.

40 (c) "Sterile hypodermic device program" has the meaning
41 ascribed to it in NRS 439.986.

42 **Sec. 6.** NRS 453.337 is hereby amended to read as follows:

43 453.337 1. Except as otherwise authorized by the
44 provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a
45 person to possess for the purpose of sale flunitrazepam,



1 gamma-hydroxybutyrate, any substance for which flunitrazepam or
2 gamma-hydroxybutyrate is an immediate precursor or any
3 controlled substance classified in schedule I or II.

4 2. ~~Unless~~ *Except as otherwise provided in subsection 3,*
5 *unless* a greater penalty is provided in NRS 453.3385 or 453.339, a
6 person who violates this section shall be punished:

7 (a) For the first offense, for a category D felony as provided in
8 NRS 193.130.

9 (b) For a second offense, or if, in the case of a first conviction of
10 violating this section, the offender has previously been convicted of
11 a felony under the Uniform Controlled Substances Act or of an
12 offense under the laws of the United States or any state, territory or
13 district which, if committed in this State, would amount to a felony
14 under the Uniform Controlled Substances Act, for a category C
15 felony as provided in NRS 193.130.

16 (c) For a third or subsequent offense, or if the offender has
17 previously been convicted two or more times of a felony under the
18 Uniform Controlled Substances Act or of any offense under the laws
19 of the United States or any state, territory or district which, if
20 committed in this State, would amount to a felony under the
21 Uniform Controlled Substances Act, for a category B felony by
22 imprisonment in the state prison for a minimum term of not less
23 than 3 years and a maximum term of not more than 15 years, and
24 may be further punished by a fine of not more than \$20,000 for each
25 offense.

26 3. *Unless a greater penalty is provided in section 1 of this act,*
27 *a person who violates this section by possessing for the purpose of*
28 *sale fentanyl, carfentanil, any benzimidazole opiate or any mixture*
29 *which contains any such controlled substance is guilty of a*
30 *category C felony and shall be punished by imprisonment in the*
31 *state prison for a minimum term of not less than 1 year and a*
32 *maximum term of not more than 5 years and by a fine of not more*
33 *than \$10,000.*

34 4. Except as otherwise provided in this subsection, unless
35 mitigating circumstances exist that warrant the granting of
36 probation, the court shall not grant probation to or suspend the
37 sentence of a person convicted of violating this section and
38 punishable pursuant to paragraph (b) or (c) of subsection 2. The
39 court shall not grant probation to or suspend the sentence of a
40 person convicted of violating this section, even if mitigating
41 circumstances exist that would otherwise warrant the granting of
42 probation, if the person violated this section by possessing

43 ~~{flunitrazepam,} :~~



(a) *Flunitrazepam*, gamma-hydroxybutyrate or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor ~~H~~; or

(b) *Fentanyl, carfentanil, any benzimidazole opiate or any mixture which contains any such controlled substance.*

Sec. 7. NRS 453.3383 is hereby amended to read as follows:

453.3383 For the purposes of NRS 453.3385 and 453.339, *and section 1 of this act*, the weight of the controlled substance as represented by the person selling or delivering it is determinative if the weight as represented is greater than the actual weight of the controlled substance.

Sec. 8. NRS 453.3385 is hereby amended to read as follows:

453.3385 ~~H~~ Except *as otherwise provided in NRS 453.339 and section 1 of this act, and except* as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of flunitrazepam, gamma-hydroxybutyrate, any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled substance which is listed in schedule I or II, ~~[except marijuana,]~~ or any mixture which contains any such controlled substance, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity involved:

~~H(a)~~ 1. Is 100 grams or more, but less than 400 grams, is guilty of low-level trafficking 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 20 years and by a fine of not more than \$100,000.

~~H(b)~~ 2. Is 400 grams or more, is guilty of high-level trafficking and shall be punished for a category A felony by imprisonment in the state prison:

~~H(1)~~ (a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

~~H(2)~~ (b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served, and by a fine of not more than \$500,000.

~~[2.— As used in this section, “marijuana” does not include concentrated cannabis.]~~

Sec. 9. NRS 453.3405 is hereby amended to read as follows:

453.3405 1. Except as otherwise provided in subsection 2, the adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation of NRS 453.3385 or 453.339 *or section 1 of this act* must not be suspended and the person is not eligible for parole until the person



1 has actually served the mandatory minimum term of imprisonment
2 prescribed by the section under which the person was convicted.

3 2. The court, upon an appropriate motion, may reduce or
4 suspend the sentence of any person convicted of violating any of the
5 provisions of NRS 453.3385 or 453.339 **or section 1 of this act**, if
6 the court finds that the convicted person rendered substantial
7 assistance in the investigation or prosecution of any offense. The
8 arresting agency must be given an opportunity to be heard before the
9 motion is granted. Upon good cause shown, the motion may be
10 heard in camera.

11 3. Any appropriate reduction or suspension of a sentence
12 pursuant to subsection 2 must be determined by the court, for
13 reasons stated by the court that may include, without limitation,
14 consideration of the following:

15 (a) The court's evaluation of the significance and usefulness of
16 the convicted person's assistance, taking into consideration the
17 prosecuting attorney's evaluation of the assistance rendered;

18 (b) The truthfulness, completeness and reliability of any
19 information or testimony provided by the convicted person;

20 (c) The nature and extent of the convicted person's assistance;

21 (d) Any injury suffered or any danger or risk of injury to the
22 convicted person or his or her family resulting from his or her
23 assistance; and

24 (e) The timeliness of the convicted person's assistance.

25 **Sec. 10.** NRS 453C.150 is hereby amended to read as follows:

26 453C.150 1. Notwithstanding any other provision of law, a
27 person who, in good faith, seeks medical assistance for a person
28 who is experiencing a drug or alcohol overdose or other medical
29 emergency or who seeks such assistance for himself or herself, or
30 who is the subject of a good faith request for such assistance may
31 not be arrested, charged, prosecuted or convicted, or have his or her
32 property subjected to forfeiture, or be otherwise penalized for
33 violating:

34 (a) Except as otherwise provided in subsection 4, a provision of
35 chapter 453 of NRS relating to:

36 (1) Drug paraphernalia, including, without limitation, NRS
37 453.554 to 453.566, inclusive;

38 (2) Possession, unless it is for the purpose of sale or violates
39 the provisions of NRS 453.3385, subsection 2 of NRS 453.3393 or
40 453.3405 **H or section 1 of this act**; or

41 (3) Use of a controlled substance, including, without
42 limitation, NRS 453.336;

43 (b) A local ordinance as described in NRS 453.3361 that
44 establishes an offense that is similar to an offense set forth in
45 NRS 453.336;



1 (c) A restraining order; or
2 (d) A condition of the person's parole or probation,
3 ➔ if the evidence to support the arrest, charge, prosecution,
4 conviction, seizure or penalty was obtained as a result of the person
5 seeking medical assistance.

6 2. A court, before sentencing a person who has been convicted
7 of a violation of chapter 453 of NRS for which immunity is not
8 provided by this section, shall consider in mitigation any evidence
9 or information that the defendant, in good faith, sought medical
10 assistance for a person who was experiencing a drug or alcohol
11 overdose or other life-threatening emergency in connection with the
12 events that constituted the violation.

13 3. For the purposes of this section, a person seeks medical
14 assistance if the person:

15 (a) Reports a drug or alcohol overdose or other medical
16 emergency to a member of a law enforcement agency, a 911
17 emergency service, a poison control center, a medical facility or a
18 provider of emergency medical services;

19 (b) Assists another person making such a report;

20 (c) Provides care to a person who is experiencing a drug or
21 alcohol overdose or other medical emergency while awaiting the
22 arrival of medical assistance; or

23 (d) Delivers a person who is experiencing a drug or alcohol
24 overdose or other medical emergency to a medical facility and
25 notifies the appropriate authorities.

26 4. The provisions of this section do not prohibit any
27 governmental entity from taking any actions required or authorized
28 by chapter 432B of NRS relating to the abuse or neglect of a child.

29 5. As used in this section, "drug or alcohol overdose" means a
30 condition, including, without limitation, extreme physical illness, a
31 decreased level of consciousness, respiratory depression, coma,
32 mania or death which is caused by the consumption or use of a
33 controlled substance or alcohol, or another substance with which a
34 controlled substance or alcohol was combined, or that an ordinary
35 layperson would reasonably believe to be a drug or alcohol overdose
36 that requires medical assistance.

37 **Sec. 11.** NRS 179A.075 is hereby amended to read as follows:

38 179A.075 1. The Central Repository for Nevada Records of
39 Criminal History is hereby created within the Records,
40 Communications and Compliance Division of the Department.

41 2. Each agency of criminal justice and any other agency
42 dealing with crime shall:

43 (a) Collect and maintain records, reports and compilations of
44 statistical data required by the Department; and

45 (b) Submit the information collected to the Central Repository:



(1) In the manner approved by the Director of the Department; and

(2) In accordance with the policies, procedures and definitions of the Uniform Crime Reporting Program of the Federal Bureau of Investigation.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates, issues or collects, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department, within 60 days after the date of the disposition of the case. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. Each state and local law enforcement agency shall submit Uniform Crime Reports to the Central Repository:

(a) In the manner prescribed by the Director of the Department;

(b) In accordance with the policies, procedures and definitions of the Uniform Crime Reporting Program of the Federal Bureau of Investigation; and

(c) Within the time prescribed by the Director of the Department.

5. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to the Committee on Domestic Violence appointed pursuant to NRS 228.470 when, pursuant to NRS 228.495, the Committee is reviewing the death of the victim of a crime that constitutes domestic violence pursuant to NRS 33.018.



6. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints or other biometric identifier the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required or authorized to be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

7. To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 6, the Central Repository must receive:

(a) The person's complete set of fingerprints for the purposes of:

(1) Booking the person into a city or county jail or detention facility;

(2) Employment;

(3) Contractual services; or

(4) Services related to occupational licensing;

(b) One or more of the person's fingerprints for the purposes of mobile identification by an agency of criminal justice; or

(c) Any other biometric identifier of the person as it may require for the purposes of:

(1) Arrest; or



1 (2) Criminal investigation,
2 ➔ from the agency of criminal justice or agency of the State of
3 Nevada or any political subdivision thereof and submit the received
4 data to the Federal Bureau of Investigation for its report.

5 8. The Central Repository shall:

6 (a) Collect and maintain records, reports and compilations of
7 statistical data submitted by any agency pursuant to subsection 2.

8 (b) Tabulate and analyze all records, reports and compilations of
9 statistical data received pursuant to this section.

10 (c) Disseminate to federal agencies engaged in the collection of
11 statistical data relating to crime information which is contained in
12 the Central Repository.

13 (d) Investigate the criminal history of any person who:

14 (1) Has applied to the Superintendent of Public Instruction
15 for the issuance or renewal of a license;

16 (2) Has applied to a county school district, charter school or
17 private school for employment or to serve as a volunteer; or

18 (3) Is employed by or volunteers for a county school district,
19 charter school or private school,

20 ➔ and immediately notify the superintendent of each county school
21 district, the governing body of each charter school and the
22 Superintendent of Public Instruction, or the administrator of each
23 private school, as appropriate, if the investigation of the Central
24 Repository indicates that the person has been convicted of a
25 violation of NRS 200.508, 201.230, 453.3385 or 453.339, **or section**
26 **1 of this act**, or convicted of a felony or any offense involving moral
27 turpitude.

28 (e) Upon discovery, immediately notify the superintendent of
29 each county school district, the governing body of each charter
30 school or the administrator of each private school, as appropriate, by
31 providing the superintendent, governing body or administrator with
32 a list of all persons:

33 (1) Investigated pursuant to paragraph (d); or

34 (2) Employed by or volunteering for a county school district,
35 charter school or private school whose fingerprints were sent
36 previously to the Central Repository for investigation,

37 ➔ who the Central Repository's records indicate have been
38 convicted of a violation of NRS 200.508, 201.230, 453.3385 or
39 453.339, **or section 1 of this act**, or convicted of a felony or any
40 offense involving moral turpitude since the Central Repository's
41 initial investigation. The superintendent of each county school
42 district, the governing body of a charter school or the administrator
43 of each private school, as applicable, shall determine whether
44 further investigation or action by the district, charter school or
45 private school, as applicable, is appropriate.



(f) Investigate the criminal history of each person who submits one or more fingerprints or other biometric identifier or has such data submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

(g) Provide an electronic means to access on the Central Repository's Internet website statistical data relating to crime.

(h) Provide an electronic means to access on the Central Repository's Internet website statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

(j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation:

(1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction; and

(2) The methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored.

9. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice or any other agency dealing with crime which is required to submit information pursuant to subsection 2. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

10. As used in this section:

(a) "Mobile identification" means the collection, storage, transmission, reception, search, access or processing of a biometric identifier using a handheld device.

(b) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in



conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) A biometric identifier of a person.

(c) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 12. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery, including, without limitation, forgery of a credit card or debit card in violation of NRS 205.740;
14. Obtaining and using personal identifying information of another person in violation of NRS 205.463;
15. Establishing or possessing a financial forgery laboratory in violation of NRS 205.46513;
16. Any violation of NRS 199.280 which is punished as a felony;
17. Burglary;
18. Grand larceny;
19. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
20. Battery with intent to commit a crime in violation of NRS 200.400;
21. Assault with a deadly weapon;
22. Any violation of NRS 453.232, 453.316 to 453.339, inclusive, *and section 1 of this act*, or NRS 453.375 to 453.401, inclusive;



- 1 23. Receiving or transferring a stolen vehicle;
- 2 24. Any violation of NRS 202.260, 202.275 or 202.350 which
- 3 is punished as a felony;
- 4 25. Any violation of subsection 2 or 3 of NRS 463.360 or
- 5 chapter 465 of NRS;
- 6 26. Receiving, possessing or withholding stolen goods valued
- 7 at \$650 or more;
- 8 27. Embezzlement of money or property valued at \$650 or
- 9 more;
- 10 28. Obtaining possession of money or property valued at \$650
- 11 or more, or obtaining a signature by means of false pretenses;
- 12 29. Perjury or subornation of perjury;
- 13 30. Offering false evidence;
- 14 31. Any violation of NRS 201.300, 201.320, 201.360 or
- 15 201.395;
- 16 32. Any violation of NRS 90.570, 91.230 or 686A.290, or
- 17 insurance fraud pursuant to NRS 686A.291;
- 18 33. Any violation of NRS 205.506, 205.920 or 205.930;
- 19 34. Any violation of NRS 202.445 or 202.446;
- 20 35. Any violation of NRS 205.377;
- 21 36. Involuntary servitude in violation of any provision of NRS
- 22 200.463 or 200.464 or a violation of any provision of NRS 200.465;
- 23 or
- 24 37. Trafficking in persons in violation of any provision of NRS
- 25 200.467 or 200.468.
- 26 **Sec. 13.** NRS 391.650 is hereby amended to read as follows:
- 27 391.650 As used in NRS 391.650 to 391.826, inclusive, unless
- 28 the context otherwise requires:
- 29 1. “Administrator” means any employee who holds a license as
- 30 an administrator and who is employed in that capacity by a school
- 31 district.
- 32 2. “Board” means the board of trustees of the school district in
- 33 which a licensed employee affected by NRS 391.650 to 391.826,
- 34 inclusive, is employed.
- 35 3. “Demotion” means demotion of an administrator to a
- 36 position of lesser rank, responsibility or pay and does not include
- 37 transfer or reassignment for purposes of an administrative
- 38 reorganization.
- 39 4. “Immorality” means:
- 40 (a) An act forbidden by NRS 200.366, 200.368, 200.400,
- 41 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,
- 42 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an
- 43 act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405,
- 44 inclusive, *and section 1 of this act*, 453.560 or 453.562; or



(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, “sexual conduct” has the meaning ascribed to it in NRS 201.520.

5. “Postprobationary employee” means an administrator or a teacher who has completed the probationary period as provided in NRS 391.820 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.730.

6. “Probationary employee” means:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.820; and

(b) A person who is deemed to be a probationary employee pursuant to NRS 391.730.

7. “Superintendent” means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. “Teacher” means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 14. This act becomes effective on July 1, 2023.

