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Nevada Department of Public Safety

Division of Parole and Probation

Offender Assessment Overview

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Northern Command

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Southern Command



INTRODUCTION

Offender Classification

- **NRS 213.1078 Level of supervision of probationer or parolee; review; notice to probationer or parolee of change in level.**
- 1. Except as otherwise provided in subsection 2, the Division shall set a level of supervision for each probationer. At least once every 6 months, or more often if necessary, the Division shall review the probationer's level of supervision to determine whether a change in the level of supervision is necessary. The Division shall specify in each review the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.
- 2. The provisions of subsection 1 are not applicable if:
 - (a) The level of supervision for the probationer is set by the court or by law; or
 - (b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to [NRS 176A.300](#) to [176A.370](#), inclusive.
- 3. Except as otherwise provided in subsection 4, at least once every 6 months, or more often if necessary, the Division shall review a parolee's level of supervision to determine whether a change in the level of supervision is necessary. The Division shall specify in each review the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the parolee of the change.
- 4. The provisions of subsection 3 are not applicable if the level of supervision for the parolee is set by the Board or by law.
- (Added to NRS by [1997, 1560](#))

Offender Classification History/Purpose

- **Offender Assessment tools have been used in the United States since the 1920's and were used by Parole Boards to estimate the probability of success or failure of prospective parolees.**
- **The Division of Parole and Probation has been using an assessment tool based on the Wisconsin Client Management System for the past 30 or more years.**
- **The Division's assessment instrument is used to estimate future recidivism or criminal behavior (risk) and to identify factors which may influence criminal behavior (needs).**
- **The Division utilizes the assessment tool to aid in the establishment of an offender supervision level, assist in the prioritization of offender contacts and to identify offender treatment needs.**

Risk and Needs

- **Offender Intake/Supervision:**
- Within the first 30 days of supervision, officers are required to complete an initial risk and needs assessment.
- Officers obtain information from the offender and from official records such as criminal history records, presentence reports and crime reports. This information is used to complete data fields on the risk and needs assessment instrument.
- Officers are required to reassess offenders every six months and adjust supervision levels as needed. Officers are required to notify offenders of a supervision level change.

Risk and Needs

- **Risk Data Categories:**
 - Residence (# of changes)
 - Employment (duration)
 - Alcohol Usage (frequency)
 - Drug Usage (frequency)
 - Attitude (impression of offender)
 - Education Level
 - Age at First Arrest
 - # of Prior Supervisions (includes juvenile)
 - # of Revocations
 - # of Gross Misdemeanor/Felony Convictions (includes juvenile and deferred cases)
 - Conviction Type (original charge)
 - Assaultive Behavior (within last 5 years/If yes, requires a supervision level of maximum for the first 3 months)

Risk and Needs

- **Needs Data Categories:**
- Vocational Skills (adequate, low, minimal level)
- Employment (satisfactory for 1 year or more, secure, unsatisfactory, unemployed/virtually unemployable)
- Emotional Stability (functioning in life situations/therapy/treatment)
- Financial Management (level of stability)
- Companions (positive support vs. adverse relationships, association with negative results)
- Marriage/Family Relationships (strong/stable/dysfunctional)
- Sexual Behavior (no problems /convictions/dysfunction)
- Alcohol Usage (disruption of functioning/frequency/needs treatment)
- Drug Usage (disruption of functioning/frequency/needs treatment)
- Mental Ability (independent functioning/limited functioning)
- Health (sound health/chronic illness)
- Agent Impression of Needs
- Prior Supervision

Risk and Needs

- Upon completion of the data fields, a score is calculated identifying offender risk and needs.
- The score is used to place the offender in a particular level of supervision.

	Risk	Needs
• 1. Intensive	23 or above	N/A
• 2. Maximum	15-22	30 or above
• 3. Medium	7 - 14	7 - 29
• 4. Minimum	0 - 6	(-8) - (+6)

Risk and Needs

- **Offender Population by Supervision Level (snapshot):**

Population	Total						
Total NV Parole	2900						
Total NV Prob	9330						
Total Inmate	69						
Lifetime Supervision	660						
Statewide Total	12959						
Supervision Level	MIN	MED	MAX	INT	ACC	HAP	UNK
Total Parole	532	1020	679	358	240	20	51
Total Prob	2955	3335	1408	610	663	79	280
Total Inmate	0	2	1	1	0	64	1
Total Lifetime Supervision	83	278	248	44	3	0	4
Statewide Total	3570	4635	2336	1013	906	163	336
Percent on Supervision Level	MIN	MED	MAX	INT	ACC	HAP	UNK
NV Parole	18.34%	35.17%	23.41%	12.34%	8.28%	0.69%	1.76%
NV Prob	31.67%	35.74%	15.09%	6.54%	7.11%	0.85%	3.00%
NV Inmate	0.00%	2.90%	1.45%	1.45%	0.00%	92.75%	1.45%
NV Lifetime Supervision	12.58%	42.12%	37.58%	6.67%	0.45%	0.00%	0.61%
Statewide Total	27.55%	35.77%	18.03%	7.82%	6.99%	1.26%	2.59%

Risk and Needs

- **Validation:**
- In October 2007, the Division contracted with the National Council on Crime and Delinquency (NCCD) to validate the Division's assessment instrument.
- According to a report prepared by NCCD in June 2009, the Division's risk assessment is functioning "reasonably well." There were recommendations made in the report to enhance our needs assessment by utilizing drug and mental health screening tools such as The Texas University Drug Screen (TCUDS) and the Brief Jail Mental Health Screening (BJMHS). These suggestions will require further evaluation by the Division.

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Fact Sheet

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Eyewitness Identification Reform

Mistaken identifications are the leading factor in wrongful convictions

Mistaken eyewitness identifications contributed to approximately 72% of the 318 wrongful convictions in the United States overturned by post-conviction DNA evidence.

- Inaccurate eyewitness identifications can confound investigations from the earliest stages. Critical time is lost while police are distracted from the real perpetrator, focusing instead on building the case against an innocent person.
- Despite solid and growing proof of the inaccuracy of traditional eyewitness ID procedures – and the availability of simple measures to reform them – traditional eyewitness identifications remain among the most commonly used and compelling evidence brought against criminal defendants.

Traditional eyewitness identification practices – and problems

- In a standard lineup, the lineup administrator typically knows who the suspect is. Research shows that administrators often provide unintentional cues to the eyewitness about which person to pick from the lineup.
- In a standard lineup, an eyewitness is shown individuals or photographs *simultaneously*. Research shows that this tends to lead eyewitnesses to choose a lineup member based upon a relative judgment (i.e., who *looks most like* the perpetrator?), rather than basing the identification on his or her own mental image of the perpetrator.
- In a standard lineup, without instructions from the administrator, the eyewitness often assumes that the perpetrator of the crime is one of those presented in the lineup. This often leads to the selection of a person despite doubts.

How to Improve the Accuracy of eyewitness identifications

The Innocence Project endorses a range of procedural reforms to improve the accuracy of eyewitness identification. These reforms have been recognized by police, prosecutorial and judicial experience, as well as national justice organizations, including the National Institute of Justice and the American Bar Association. The benefits of these reforms are corroborated by over 30 years of peer-reviewed comprehensive research.

1. The “Double-blind” Procedure/Use of a Blind Administrator: A “double-blind” lineup is one in which neither the administrator nor the eyewitness knows who the suspect is. This prevents the administrator of the lineup from providing inadvertent or intentional verbal or nonverbal cues to influence the eyewitness to pick the suspect.

Sequential Presentation of Lineups: When combined with a “blind” administrator, presenting lineup members one-by-one (sequentially), rather than all at once (simultaneously) has been proven to significantly increase the overall accuracy of eyewitness identifications.

3. Instructions: “Instructions” are a series of statements issued by the lineup administrator to the eyewitness that deter the eyewitness from feeling compelled to make a selection. They also prevent the eyewitness from looking to the lineup administrator for feedback during the identification procedure. One of the recommended instructions includes the directive that *the suspect may or may not be present in the lineup*.

4. Composing the Lineup: Suspect photographs should be selected that do not bring unreasonable attention to him. Non-suspect photographs and/or live lineup members (fillers) should be selected based on their *resemblance to the description provided by the eyewitness* – as opposed to their resemblance to the police suspect. Note, however, that within this requirement, the suspect should not unduly stand out from among the other fillers. (More detailed recommendations can be provided upon request by the Innocence Project.)

5. Confidence Statements: Immediately following the lineup procedure, the eyewitness should provide a

statement, in his own words, that articulates the level of confidence he has in the identification made.

6. The Lineup Procedure Should Be Documented: Ideally, the lineup procedure should be electronically recorded. If this is impracticable, an audio or written record should be made.

Jurisdictions utilizing "sequential double-blind" procedures:

New Jersey, North Carolina, and Connecticut, as well as jurisdictions ranging in size from **Dallas, Minneapolis, Boston, Philadelphia, San Diego, San Francisco, Tucson** and **Denver** to **Northampton, MA**, have implemented "sequential double-blind" as standard procedure.

Georgia, Oregon, Virginia, Texas, Wisconsin, and **Rhode Island** have recommended/promulgated "double-blind sequential" voluntary guidelines and incorporated them into law enforcement training.

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MODEL LEGISLATION

AN ACT TO IMPROVE THE ACCURACY OF EYEWITNESS IDENTIFICATIONS

SECTION 1. LEGISLATIVE INTENT

The legislature finds that:

- A. The goal of a police investigation is to apprehend the person or persons responsible for the commission of a crime;
- B. Mistaken eyewitness identification has been shown to have contributed to the wrongful conviction in approximately 75% of the nation's 289 exonerations;
- C. Over the past 30 years, a large body of peer-reviewed, scientific research and practice has emerged showing that simple systemic changes in administering eyewitness identification procedures can greatly improve the accuracy of those identifications;
- D. Policies and procedures to improve the accuracy of eyewitness identifications such as those recommended by the U.S. National Institute of Justice, the American Bar Association, the New Jersey Office of the Attorney General, the Wisconsin Office of the Attorney General, the California Commission on the Fair Administration of Justice, and the North Carolina Actual Innocence Commission are readily available;
- E. More accurate eyewitness identifications increase the ability of police and prosecutors to convict the guilty and protect the innocent;
- F. The integrity of [State's] criminal justice process is enhanced by adherence to best practices in evidence gathering; and



G. [State] will benefit from the improvement of the accuracy of eyewitness identifications.

SECTION 2: DEFINITIONS

For the purposes of this Act:

- A. “Administrator” means the person conducting the photo or live lineup;
- B. “Suspect” means the person believed by law enforcement to be the possible perpetrator of the crime;
- C. “Blind” means the administrator does not know the identity of the suspect;
- D. “Blinded” means the administrator may know who the suspect is, but by virtue of the use of procedures and/or technology to accomplish this purpose, does not know which lineup member is being viewed by the eyewitness;
- E. “Contamination” occurs when an eyewitness’s memory of a person or event becomes altered, replaced, or otherwise impaired as a result of exposure to extrinsic information related to that person or event.
- F. “Eyewitness” means a person who observes another person at or near the scene of an offense;
- G. “Filler” means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure;
- H. “Identification procedure” means a live lineup, a photo lineup, or a showup.
- I. “Live lineup” means an identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the

perpetrator;

J. "Photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness either in hard copy form or via computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator; and

K. "Showup" means an identification procedure in which an eyewitness is presented with a single suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator.

SECTION 3. EYEWITNESS IDENTIFICATION PROCEDURES

Any criminal justice entity conducting eyewitness identification procedures shall adopt specific procedures for conducting photo and live lineups that comply with the following requirements:

A. Prior to a photo or live lineup, law enforcement shall record as complete a description as possible of the perpetrator provided by the eyewitness, in the eyewitness's own words. This statement shall also include information regarding the conditions under which the eyewitness observed the perpetrator including location, time, distance, obstructions, lighting, weather conditions, and other impairments, including but not limited to alcohol, drugs, stress, and visual/auditory disabilities. The eyewitness shall also be asked if he needs glasses or contact lenses and whether he was wearing them at the time of the offense. The administrator shall note

whether the eyewitness was wearing glasses or contact lenses at the time of the identification procedure.

B. All live and photographic displays shall be conducted blind unless to do so would place an undue burden on law enforcement or the investigation. If such circumstances are properly documented pursuant to subsections S, T and U of this Section, investigators may administer a photographic display blinded;

C. The eyewitness shall be instructed, without other eyewitnesses present, prior to any live or photo lineup that:

1. The perpetrator may or may not be among the persons in the identification procedure or, in the case of a showup, may or may not be the person that is presented to the eyewitness;
2. The administrator does not know who the perpetrator is;
3. The eyewitness should not feel compelled to make an identification;
4. The investigation will continue whether or not an identification is made;
5. The procedure requires the administrator to ask the eyewitness to state, in his own words, how certain he is of any identification; and
6. The eyewitness is not to discuss the identification procedure or its results with other eyewitnesses involved in the case and should not speak with the media;

D. In a photo lineup, the photograph of the suspect shall be contemporary and shall resemble his or her appearance at the time of the offense;

E. In a photo lineup, there shall be no characteristics of the photographs themselves or the background context in which they are placed which shall make any of the photographs unduly stand out;

F. A photo or live lineup shall be composed so that the fillers generally resemble the eyewitness's description of the perpetrator, while ensuring that the suspect does not unduly stand out from the fillers;

G. In a photo or live lineup, fillers shall possess the following characteristics:

1. All fillers selected shall resemble the eyewitness's description of the perpetrator in significant features (i.e., face, weight, build, skin tone, etc.), including any unique or unusual features (i.e., scar, tattoo, etc.);
2. At least five fillers shall be included in a photo lineup, in addition to the suspect;
3. At least four fillers shall be included in a live lineup, in addition to the suspect; and
4. If the eyewitness has previously viewed a photo lineup or live lineup in connection with the identification of another person suspected of involvement in the offense, the fillers in the lineup in which the instant suspect participates shall be different from the fillers used in any prior lineups;

H. If there are multiple eyewitnesses:

1. Each eyewitness shall view photo or live lineups separately;
2. The suspect shall be placed in a different position in the live lineup and/or photo lineup for each eyewitness; and

3. The eyewitnesses shall not be permitted to communicate with each other until all identification procedures have been completed;
 - I. In an identification procedure, no writings or information concerning the instant or any previous arrest, indictment or conviction of the suspect shall be visible or made known to the eyewitness;
 - J. In a live lineup, any identifying actions, such as speech, gestures or other movements, shall be performed by all lineup participants;
 - K. In a live lineup, all lineup participants must be out of view of the eyewitness prior to the identification procedure;
 - L. When there are multiple suspects, each identification procedure shall include only one suspect;
 - M. Nothing shall be said to the eyewitness regarding the suspect's position in the photo or live lineup;
 - N. Nothing shall be said to the eyewitness that might influence the eyewitness's identification of any particular lineup member;
 - O. If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator;

P. If the eyewitness identifies a person as the perpetrator, the eyewitness shall not be provided any information concerning such person before the administrator obtains the eyewitness's confidence statement about the selection;

Q. A record of the identification procedure shall be made that includes all identification and non-identification results obtained during the identification procedures, signed by the eyewitnesses;

R. Efforts shall be made to perform a live or photo lineup instead of a showup.

1. Showups shall only be performed using a live suspect and only in exigent circumstances that require the immediate display of a suspect to an eyewitness.
2. Investigators shall not conduct a showup with a single photograph; if investigators wish to determine if an eyewitness can make an identification using a photograph, a photographic display must be used.
3. In the event of the administration of a showup procedure:
 - a. A full and detailed description of the perpetrator shall be provided by the eyewitness before the eyewitness observes the suspect. This statement shall also include information regarding the conditions under which the eyewitness observed the perpetrator including location, time, distance, obstructions, lighting, weather conditions, and other impairments, including but not limited to alcohol, drugs, stress, and visual/auditory disabilities. The eyewitness shall be also be asked if he needs glasses or contact lenses and whether he was wearing them at

the time of the offense. The administrator shall note whether the eyewitness was wearing glasses or contact lenses at the time of the identification procedure.

b. The eyewitness shall be transported to a neutral, non-law enforcement location where the suspect is being detained for the purposes of a showup procedure.

c. The eyewitness shall be provided with instructions prior to the showup, including:

- i. The perpetrator may or may not be the person that is presented to the eyewitness;
- ii. The eyewitness should not feel compelled to make an identification;
- iii. The investigation will continue whether or not an identification is made;
- iv. The procedure requires the administrator to ask the eyewitness to state, in his own words, how certain he is of any identification; and
- v. The eyewitness is not to discuss the identification procedure or its results with other eyewitnesses involved in the case and should not speak with the media;

d. Measures shall be taken by investigators at the showup, including the administrator of the showup, to reduce potentially damaging or prejudicial inferences that may be drawn by the eyewitness, including:

- i. Refraining from suggesting, through statements or non-verbal conduct, that the suspect is or may be the perpetrator of the crime;

- ii. Removing the suspect from a squad car; and
 - iii. When practicable, removing handcuffs from the suspect;
 - e. If there are multiple eyewitnesses, only one eyewitness at a time shall participate in the showup procedure:
 - i. Only one of the eyewitnesses shall be present at the location of the showup procedure;
 - ii. If a positive identification is made, and an arrest is justified, additional eyewitnesses shall be shown live or photo lineups; and
 - f. If there are multiple suspects, these suspects shall be separated and subjected to separate showup procedures.
 - g. If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator.
 - h. Investigators shall photograph a suspect at the time and place of the showup to preserve a record of the appearance of the suspect at the time of the show-up procedure.
- S. Unless impracticable, a video record of the identification procedure shall be made that includes the following information:

1. All identification and non-identification results obtained during the identification procedures, signed by the eyewitnesses, including the eyewitnesses' confidence statements;
 2. The names of all persons present at the identification procedure, including the name of the lineup administrator and whether the administrator was blind, blinded or non-blind;
 3. When it is impracticable for a blind administrator to conduct the eyewitness identification procedure, the investigator shall state in writing the reason therefor;
 4. The date and time of the identification procedure;
 5. In a photo or live lineup, any eyewitness identification(s) of (a) filler(s); and
 6. In a photo or live lineup, the names of the lineup members and other relevant identifying information, and the sources of all photographs or persons used in the lineup;
- T. If a video record of the lineup is impracticable, the officer conducting the lineup shall document the reason therefor, and an audio record of the identification procedure shall be made which includes the items specified in Section 3, clause S, subclauses 1-6 of this Act. The audio record shall be supplemented by the all of the photographs used in a photo lineup, and photographs of all of the individuals used in a live lineup or showup; and
- U. If both a video and audio record of the lineup are impracticable, the officer conducting the lineup shall document in writing the reason therefor, and a written record of the lineup shall be made which includes the items specified in Section 3, clause S, subclauses 1-6 of this Act. The written record shall be supplemented by the all of the photographs used in a photo lineup, and photographs of all of the individuals used in a live lineup or showup.

SECTION 4. REMEDIES FOR NONCOMPLIANCE OR OTHER CONTAMINATION

For any photo or live lineup, or showup procedure that was administered after the date upon which Section 3 of this Act took effect:

A. PRETRIAL RELIABILITY HEARING

Whenever the prosecution intends to offer eyewitness identification evidence at trial, the defendant is entitled to a pretrial evidentiary hearing as to the reliability of such evidence. At the hearing, the court shall examine whether law enforcement failed to substantially comply with any requirement contained in Section 3 of this statute, whether any other suggestive identification procedures were employed, whether the eyewitness identification evidence may have been otherwise contaminated by state or non-state actors, and any other factors bearing upon the reliability of the identification evidence, including but not limited to characteristics of the witness, perpetrator, and/or event.

B. EVIDENCE OF FAILURE TO COMPLY OR OTHER CONTAMINATION

If, at the pretrial reliability hearing required by Section 4, subsection A of this Act, the trial court finds evidence of a failure of law enforcement officials or prosecuting agencies to comply with any of the provisions of Section 3 of this Act, of the use of any other suggestive identification procedures, or of any other contamination of identification evidence by state or non-state actors, it shall:

1. consider such evidence in determining the admissibility of the eyewitness identification; and



2. suppress such evidence when there is a substantial probability of eyewitness misidentification; or
3. instruct the jury, when such evidence is admissible, both when admitting such evidence and prior to the jury's deliberation, where applicable:
 - a. that the provisions of Section 3 were designed to reduce the risk of misidentification and that it may consider credible evidence of noncompliance when assessing the reliability of the eyewitness identification evidence;
 - b. that the contamination of the eyewitness identification evidence by factors other than state noncompliance with any of the provisions of the statute, including but not limited to the use of any other suggestive identification procedures, and/or suggestive actions of non-state actors that increased the risk of misidentification.
 - c. that it should view the identification evidence with distrust, if the court has determined that its confidence in the reliability of the eyewitness identification has been sufficiently undermined.

SECTION 5. TRAINING OF LAW ENFORCEMENT OFFICERS

The Department of Public Safety shall create, administer and conduct training programs for law enforcement officers and recruits regarding the methods, technical aspects and scientific findings regarding the basis of the eyewitness identification practices and procedures referenced in this Act.



SECTION 6. EFFECTIVE DATE

This Act shall take effect on [date].

NRS 171.1237 Identification of suspect by live lineup, photo lineup or show-up: Law enforcement agencies to adopt policies and procedures governing use.

1. Each law enforcement agency shall adopt policies and procedures governing the use of live lineups, photo lineups and show-ups.

2. As used in this section:

(a) "Live lineup" means an identification procedure in which a group of persons, including the suspect, is displayed to an eyewitness to determine whether the eyewitness identifies the suspect as the perpetrator of a crime.

(b) "Photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspect, is displayed to an eyewitness in hard copy or by digital image to determine whether the eyewitness identifies the suspect as the perpetrator of a crime.

(c) "Show-up" means an identification procedure in which the suspect appears individually for possible identification by the eyewitness as the perpetrator of a crime.

(Added to NRS by 2011, 325)

III

ASSEMBLY BILL NO. 248—ASSEMBLYMEN FIORE, HICKEY, HARDY, FRIERSON, BOBZIEN; AIZLEY, ELLIOT ANDERSON, PAUL ANDERSON, BENITEZ-THOMPSON, BUSTAMANTE ADAMS, CARLTON, CARRILLO, DALY, DIAZ, DONDERO LOOP, DUNCAN, EISEN, ELLISON, FLORES, GRADY, HAMBRICK, HANSEN, HEALEY, HOGAN, HORNE, KIRKPATRICK, KIRNER, LIVERMORE, MARTIN, MUNFORD, NEAL, OHRENSCHALL, OSCARSON, PIERCE, SPIEGEL, STEWART, SWANK, WHEELER AND WOODBURY

MARCH 13, 2013

JOINT SPONSORS: SENATORS ATKINSON, SEGERBLOM, HUTCHISON, CEGAVSKE, HAMMOND; DENIS, FORD, GOICOECHEA, GUSTAVSON, HARDY, KIECKHEFER, KIHUEN, MANENDO, PARKS, ROBERSON, SETTELMAYER, SPEARMAN AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain criminal offenses involving vehicles. (BDR 43-616)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to vehicles; providing that violations of certain traffic laws and ordinances must be treated as civil matters; providing that violations of certain laws relating to drivers' licenses, the registration of motor vehicles and insurance on motor vehicles must be treated as civil matters; establishing procedures for the imposition of civil penalties for violations of certain traffic laws and certain laws relating to vehicles; and providing other matters properly relating thereto.



* A B 2 4 8 *

Legislative Counsel's Digest:

1 Existing law provides that a violation of any traffic law or ordinance is a
2 misdemeanor, unless a different penalty is prescribed by a different statute. (NRS
3 484A.900) Existing law further provides that a county or an incorporated city may
4 enact ordinances imposing civil penalties for violations of certain ordinances
5 enacted by the county or incorporated city. (NRS 244.3575, 268.019) **Sections 12-**
6 **23 and 39** of this bill enact provisions based on Arizona law to provide for the
7 imposition of civil penalties rather than criminal penalties for violations of certain
8 traffic laws and ordinances. Under **sections 19 and 39**: (1) the maximum civil
9 penalty that may be imposed for a violation of a traffic law or ordinance punishable
10 by a civil penalty is \$250, unless a different amount is specified by statute; and (2)
11 the judgment imposing the civil penalty must include the administrative
12 assessments currently imposed for violations of traffic laws and ordinances.

13 Existing law provides that any violation of state law regarding drivers' licenses
14 or the registration of motor vehicles is a misdemeanor, unless a statute specifies a
15 different penalty. (NRS 482.555, 483.620) **Sections 1-4, 9 and 10** of this bill enact
16 provisions based on Arizona law to provide that a person who: (1) operates, or
17 knowingly permits the operation of, a motor vehicle in this State without current
18 registration and license plates is subject to a civil penalty rather than the penalty for
19 a misdemeanor; (2) fails to register his or her motor vehicle in this State within a
20 certain period after becoming a resident of this State is subject to a civil penalty in
21 the same amount as the criminal fine provided under existing law; or (3) does not
22 obtain a driver's license in this State within a certain period after becoming a
23 resident or drives a motor vehicle in this State without being the holder of a valid
24 driver's license is subject to a civil penalty of not more than \$250 rather than the
25 penalty for a misdemeanor, except that a person who drives a motor vehicle in this
26 State when the person is disqualified from driving is guilty of a misdemeanor.

27 Existing law provides that a person commits a misdemeanor if he or she: (1)
28 operates a motor vehicle registered or required to be registered in this State without
29 having insurance; (2) operates or knowingly permits the operation of the motor
30 vehicle without evidence of insurance in the vehicle; or (3) fails or refuses to
31 surrender, upon demand, to a peace officer or an authorized representative of the
32 Department of Motor Vehicles the evidence of insurance. (NRS 485.187) **Section**
33 **37** of this bill enacts provisions based on Arizona law to provide that a person who
34 commits these violations is subject to a civil penalty in the same amount as the
35 criminal fine imposed under current law.

36 Existing law provides that it is unlawful for a person to violate a written
37 promise to appear given to a peace officer upon the issuance of a traffic citation and
38 that a warrant may issue upon a violation of a written promise to appear. (NRS
39 484A.670) **Sections 18, 25 and 27** of this bill provide that a person who violates a
40 written promise to appear given upon the issuance of a citation for a violation that
41 is punishable by a civil penalty must have a judgment for the civil penalty entered
42 against him or her and that a warrant must be issued for the failure to appear.
43 **Sections 7 and 22** of this bill provide for the suspension of the driver's license of a
44 person who fails to pay a civil penalty within the time prescribed by law.

45 **Sections 5, 6 and 8** of this bill provide that, for the purposes of maintaining a
46 person's driving record, the imposition of a civil penalty for a traffic violation is
47 treated the same as a conviction for a traffic offense under existing law.

48 **Sections 25, 26, 31 and 33-36** of this bill maintain the designation of certain
49 traffic offenses as misdemeanors. **Section 32** of this bill provides that a person who
50 commits certain civil traffic violations in a road construction zone is subject to an
51 additional civil penalty.

52 **Sections 40-42** of this bill enact provisions to govern the jurisdiction and
53 disposition of civil violations committed by juveniles.



* A B 2 4 8 *

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

1 **Section 1.** NRS 482.385 is hereby amended to read as follows:
2 482.385 1. Except as otherwise provided in subsections 5 and
3 7 and NRS 482.390, a nonresident owner of a vehicle of a type
4 subject to registration pursuant to the provisions of this chapter,
5 owning any vehicle which has been registered for the current year in
6 the state, country or other place of which the owner is a resident and
7 which at all times when operated in this State has displayed upon it
8 the registration license plate issued for the vehicle in the place of
9 residence of the owner, may operate or permit the operation of the
10 vehicle within this State without its registration in this State
11 pursuant to the provisions of this chapter and without the payment
12 of any registration fees to this State:
13 (a) For a period of not more than 30 days in the aggregate in any
14 1 calendar year; and
15 (b) Notwithstanding the provisions of paragraph (a), during any
16 period in which the owner is:
17 (1) On active duty in the military service of the United
18 States;
19 (2) An out-of-state student;
20 (3) Registered as a student at a college or university located
21 outside this State and who is in the State for a period of not more
22 than 6 months to participate in a work-study program for which the
23 student earns academic credits from the college or university; or
24 (4) A migrant or seasonal farm worker.
25 2. This section does not:
26 (a) Prohibit the use of manufacturers', distributors' or dealers'
27 license plates issued by any state or country by any nonresident in
28 the operation of any vehicle on the public highways of this State.
29 (b) Require registration of vehicles of a type subject to
30 registration pursuant to the provisions of this chapter operated by
31 nonresident common motor carriers of persons or property, contract
32 motor carriers of persons or property, or private motor carriers of
33 property as stated in NRS 482.390.
34 (c) Require registration of a vehicle operated by a border state
35 employee.
36 3. Except as otherwise provided in subsection 5, when a
37 person, formerly a nonresident, becomes a resident of this State, the
38 person shall:
39 (a) Within 30 days after becoming a resident; or
40 (b) At the time he or she obtains a driver's license,
41 ➤ whichever occurs earlier, apply for the registration of each
42 vehicle the person owns which is operated in this State. When a



1 person, formerly a nonresident, applies for a driver's license in this
2 State, the Department shall inform the person of the requirements
3 imposed by this subsection and of the penalties that may be imposed
4 for failure to comply with the provisions of this subsection.

5 4. A citation may be issued pursuant to subsection 1, 3 or 5
6 only if the violation is discovered when the vehicle is halted or its
7 driver arrested for another alleged violation or offense. The
8 Department shall maintain or cause to be maintained a list or other
9 record of persons who fail to comply with the provisions of
10 subsection 3 and shall, at least once each month, provide a copy of
11 that list or record to the Department of Public Safety.

12 5. Except as otherwise provided in this subsection, a resident or
13 nonresident owner of a vehicle of a type subject to registration
14 pursuant to the provisions of this chapter who engages in a trade,
15 profession or occupation or accepts gainful employment in this State
16 or who enrolls his or her children in a public school in this State
17 shall, within 30 days after the commencement of such employment
18 or enrollment, apply for the registration of each vehicle the person
19 owns which is operated in this State. The provisions of this
20 subsection do not apply to a nonresident who is:

- 21 (a) On active duty in the military service of the United States;
22 (b) An out-of-state student;
23 (c) Registered as a student at a college or university located
24 outside this State and who is in the State for a period of not more
25 than 6 months to participate in a work-study program for which the
26 student earns academic credits from the college or university; or
27 (d) A migrant or seasonal farm worker.

28 6. A ~~person who violates~~ violation of the provisions of
29 subsection 1, 3 or 5 ~~is guilty of a misdemeanor~~ must be treated as
30 a civil matter pursuant to sections 12 to 22, inclusive, of this act
31 and, except as otherwise provided in this subsection, a person who
32 violates the provisions of subsection 1, 3 or 5 shall be punished by
33 a ~~fine~~ civil penalty of \$1,000. The ~~fine~~ civil penalty imposed
34 pursuant to this subsection is in addition to any fine or penalty
35 imposed for the other alleged violation or offense for which the
36 vehicle was halted or its driver arrested pursuant to subsection 4.
37 The ~~fine~~ civil penalty imposed pursuant to this subsection may be
38 reduced to not less than \$200 if the person presents evidence at the
39 time of the hearing that the person has registered the vehicle
40 pursuant to this chapter.

41 7. Any resident operating upon a highway of this State a motor
42 vehicle which is owned by a nonresident and which is furnished to
43 the resident operator for his or her continuous use within this State,
44 shall cause that vehicle to be registered within 30 days after
45 beginning its operation within this State.



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1 8. A person registering a vehicle pursuant to the provisions of
2 subsection 1, 3, 5, 7 or 9 or pursuant to NRS 482.390:

3 (a) Must be assessed the registration fees and governmental
4 services tax, as required by the provisions of this chapter and
5 chapter 371 of NRS; and

6 (b) Must not be allowed credit on those taxes and fees for the
7 unused months of the previous registration.

8 9. If a vehicle is used in this State for a gainful purpose, the
9 owner shall immediately apply to the Department for registration,
10 except as otherwise provided in NRS 482.390, 482.395 and 706.801
11 to 706.861, inclusive.

12 10. An owner registering a vehicle pursuant to the provisions
13 of this section shall surrender the existing nonresident license plates
14 and registration certificates to the Department for cancellation.

15 11. A vehicle may be cited for a violation of this section
16 regardless of whether it is in operation or is parked on a highway, in
17 a public parking lot or on private property which is open to the
18 public if, after communicating with the owner or operator of the
19 vehicle, the peace officer issuing the citation determines that:

20 (a) The owner of the vehicle is a resident of this State;

21 (b) The vehicle is used in this State for a gainful purpose;

22 (c) Except as otherwise provided in paragraph (b) of subsection
23 1, the owner of the vehicle is a nonresident and has operated the
24 vehicle in this State for more than 30 days in the aggregate in any 1
25 calendar year; or

26 (d) The owner of the vehicle is a nonresident required to register
27 the vehicle pursuant to subsection 5.

28 ➤ As used in this subsection, "peace officer" includes a constable.

29 **Sec. 2.** NRS 482.545 is hereby amended to read as follows:

30 482.545 It is unlawful for any person to commit any of the
31 following acts:

32 1. To operate, or for the owner thereof knowingly to permit the
33 operation of, upon a highway any motor vehicle, trailer or
34 semitrailer which is not registered or which does not have attached
35 thereto and displayed thereon the number of plate or plates assigned
36 thereto by the Department for the current period of registration or
37 calendar year, subject to the exemption allowed in NRS 482.316 to
38 482.3175, inclusive, 482.320 to 482.363, inclusive, 482.385 to
39 482.3965, inclusive, and 482.420. *A person who violates this*
40 *subsection is subject to a civil penalty of not more than \$250 to be*
41 *imposed pursuant to sections 12 to 22, inclusive, of this act.*

42 2. To display, cause or permit to be displayed or to have in
43 possession any certificate of registration, license plate, certificate of
44 title, temporary placard, movement permit or other document of title



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1 knowing it to be fictitious or to have been cancelled, revoked,
2 suspended or altered.

3 3. To lend to, or knowingly permit the use of by, one not
4 entitled thereto any registration card, plate, temporary placard or
5 movement permit issued to the person so lending or permitting the
6 use thereof.

7 4. To fail or to refuse to surrender to the Department, upon
8 demand, any registration card or plate which has been suspended,
9 cancelled or revoked as provided in this chapter.

10 5. To use a false or fictitious name or address in any
11 application for the registration of any vehicle or for any renewal or
12 duplicate thereof, or knowingly to make a false statement or
13 knowingly to conceal a material fact or otherwise commit a fraud in
14 an application. A violation of this subsection is a gross
15 misdemeanor.

16 6. Knowingly to operate a vehicle which:

17 (a) Has an identification number or mark which has been falsely
18 attached, removed, defaced, altered or obliterated; or

19 (b) Contains a part which has an identification number or mark
20 which has been falsely attached, removed, defaced, altered or
21 obliterated.

22 **Sec. 3.** NRS 482.555 is hereby amended to read as follows:

23 482.555 In addition to any other penalty provided by this
24 chapter:

25 1. It is a gross misdemeanor for any person knowingly to
26 falsify:

27 (a) A dealer's or rebuilder's report of sale, as described in NRS
28 482.423 and 482.424;

29 (b) An application or document to obtain any license, permit,
30 certificate of title or vehicle registration issued under the provisions
31 of this chapter; or

32 (c) An application or document to obtain a salvage title or
33 nonrepairable vehicle certificate as defined in chapter 487 of NRS.

34 2. ~~It~~ *Except as otherwise provided in subsection 6 of NRS*
35 *482.385 and subsection 1 of NRS 482.545, it is a misdemeanor for*
36 *any person to violate any of the provisions of this chapter unless*
37 *such violation is by this section or other provision of this chapter or*
38 *other law of this State declared to be a gross misdemeanor or a*
39 *felony.*

40 **Sec. 4.** NRS 483.245 is hereby amended to read as follows:

41 483.245 1. When a person becomes a resident of Nevada as
42 defined in this chapter and chapter 482 of NRS, the person must,
43 within 30 days, obtain a Nevada driver's license as a prerequisite to
44 driving any motor vehicle in the State of Nevada. *A person who*
45 *violates this subsection is subject to a civil penalty of not more*



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1 *than \$250 to be imposed pursuant to sections 12 to 22, inclusive,*
2 *of this act.*

3 2. Where a person who applies for a license has a valid driver's
4 license from a state which has requirements for issuance of drivers'
5 licenses comparable to those of the State of Nevada, the Department
6 may issue a Nevada license under the same terms and conditions
7 applicable to a renewal of a license in this State.

8 3. In carrying out the provisions of this chapter, the
9 Administrator is authorized to enter into reciprocal agreements with
10 appropriate officials of other states concerning the licensing of
11 drivers of motor vehicles.

12 **Sec. 5.** NRS 483.447 is hereby amended to read as follows:

13 483.447 A person who does not hold a valid license issued by
14 this State or any other state and who operates a vehicle in this State
15 shall be deemed to have future driving privileges that may be
16 suspended if the person is convicted of any traffic offense in this
17 State **H** *or if a judgment for a civil penalty is entered against the*
18 *person pursuant to sections 12 to 22, inclusive, of this act for any*
19 *traffic offense in this State.*

20 **Sec. 6.** NRS 483.450 is hereby amended to read as follows:

21 483.450 1. A record of conviction must be made in a manner
22 approved by the Department. The court shall provide sufficient
23 information to allow the Department to include accurately the
24 information regarding the conviction in the driver's record.

25 2. The Department shall adopt regulations prescribing the
26 information necessary to record the conviction in the driver's
27 record.

28 3. Every court, including a juvenile court, having jurisdiction
29 over violations of the provisions of NRS 483.010 to 483.630,
30 inclusive, or any other law of this State or municipal ordinance
31 regulating the operation of motor vehicles on highways, shall
32 forward to the Department:

33 (a) If the court is other than a juvenile court, a record of the
34 conviction of any person in that court for a violation of any such
35 laws other than regulations governing standing or parking; or

36 (b) If the court is a juvenile court, a record of any finding that a
37 child has violated a traffic law or ordinance other than one
38 governing standing or parking,

39 **↳** within 5 days after the conviction or finding, and may
40 recommend the suspension of the driver's license of the person
41 convicted or child found in violation of a traffic law or ordinance.

42 4. If a record forwarded to the Department pursuant to
43 subsection 3 is a record of the conviction of a person who holds a
44 commercial driver's license, the Department shall, within 5 days
45 after the date on which it receives such a record, transmit notice of



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1 the conviction to the Commercial Driver's License Information
2 System.

3 5. For the purposes of NRS 483.010 to 483.630, inclusive:

4 (a) "Conviction" has the meaning prescribed by regulation
5 pursuant to NRS 481.052 ~~H~~ *and includes, without limitation, the*
6 *entering of a judgment for a civil penalty pursuant to sections 12*
7 *to 22, inclusive, of this act.*

8 (b) A forfeiture of bail or collateral deposited to secure a
9 defendant's appearance in court, if the forfeiture has not been
10 vacated, is equivalent to a conviction.

11 6. The necessary expenses of mailing records of conviction to
12 the Department as required by this section must be paid by the court
13 charged with the duty of forwarding those records of conviction.

14 7. As used in this section, "Commercial Driver's License
15 Information System" has the meaning ascribed to it in
16 NRS 483.904.

17 **Sec. 7.** NRS 483.465 is hereby amended to read as follows:

18 483.465 1. If a driver who holds a Nevada driver's license
19 ~~violates~~ :

20 (a) *Fails to pay a civil penalty or any administrative*
21 *assessment imposed pursuant to sections 12 to 22, inclusive, of this*
22 *act within the time required by section 22 of this act, other than*
23 *for a violation of a traffic law or ordinance occurring within this*
24 *State governing standing or parking; or*

25 (b) *Violates* a written promise to appear pursuant to a citation
26 that was prepared manually or electronically for a violation of a
27 traffic law or ordinance *punishable as a misdemeanor and*
28 *occurring within this State other than one governing standing or*
29 *parking,*

30 ~~the~~ the clerk of the court shall immediately notify the Department on
31 a form approved by the Department.

32 2. Upon receipt of notice from a court in this State of a failure
33 to appear, the Department shall notify the driver by mail that his or
34 her privilege to drive is subject to suspension and allow 30 days
35 after the date of mailing the notice to:

36 (a) Appear in court and obtain a dismissal of the citation or
37 complaint as provided by law;

38 (b) Appear in court and, if permitted by the court, make an
39 arrangement acceptable to the court to satisfy a judgment of
40 conviction ~~H~~ *or a judgment for a civil penalty and administrative*
41 *assessments entered pursuant to sections 12 to 22, inclusive, of*
42 *this act;*

43 (c) *Pay the civil penalty and administrative assessments*
44 *imposed pursuant to sections 12 to 22, inclusive, of this act; or*

45 (d) Make a written request to the Department for a hearing.



1 3. If notified by a court, within 30 days after the notice of a
2 failure to appear, that a driver has been allowed to make an
3 arrangement for the satisfaction of a judgment of conviction ~~or~~ *or a*
4 *judgment for a civil penalty and administrative assessments*
5 *entered pursuant to sections 12 to 22, inclusive, of this act*, the
6 Department shall remove the suspension from the driver's record. If
7 the driver subsequently defaults on the arrangement with the court,
8 the court shall notify the Department which shall immediately
9 suspend the driver's license until the court notifies the Department
10 that the suspension may be removed.

11 4. The Department shall suspend the license of a driver 31 days
12 after it mails the notice provided for in subsection 2 to the driver,
13 unless within that time it has received a written request for a hearing
14 from the driver or notice from the court on a form approved by the
15 Department that the driver has appeared, ~~or~~ the citation or
16 complaint has been dismissed ~~or~~ *or the civil penalty and*
17 *administrative assessments imposed pursuant to sections 12 to 22,*
18 *inclusive, of this act have been paid.* A license so suspended
19 remains suspended until further notice is received from the court
20 that the driver has appeared or that the case has been otherwise
21 disposed of as provided by law.

22 **Sec. 8.** NRS 483.473 is hereby amended to read as follows:

23 483.473 1. As used in this section, "traffic violation" means
24 conviction of a moving traffic violation, *or the entering of a*
25 *judgment for a civil penalty pursuant to sections 12 to 22,*
26 *inclusive, of this act*, in any municipal court, justice court or district
27 court in this State. The term includes a finding by a juvenile court
28 that a child has violated a traffic law or ordinance other than one
29 governing standing or parking. The term does not include a
30 conviction or a finding by a juvenile court of a violation of the speed
31 limit posted by a public authority under the circumstances described
32 in subsection 1 of NRS 484B.617.

33 2. The Department shall establish a uniform system of demerit
34 points for various traffic violations occurring within this State
35 affecting the driving privilege of any person who holds a driver's
36 license issued by the Department and persons deemed to have future
37 driving privileges pursuant to NRS 483.447. The system must be
38 based on the accumulation of demerits during a period of 12
39 months.

40 3. The system must be uniform in its operation, and the
41 Department shall set up a schedule of demerits for each traffic
42 violation, depending upon the gravity of the violation, on a scale of
43 one demerit point for a minor violation of any traffic law to eight
44 demerit points for an extremely serious violation of the law
45 governing traffic violations. If a conviction of, *or the entering of a*



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1 *judgment for a civil penalty for*, two or more traffic violations
2 committed on a single occasion is obtained, points must be assessed
3 for one ~~offense~~ violation, and if the point values differ, points
4 must be assessed for the ~~offense~~ violation having the greater point
5 value. Details of the violation must be submitted to the Department
6 by the court where the conviction is obtained ~~or the judgment for~~
7 *the civil penalty is entered*. The Department may provide for a
8 graduated system of demerits within each category of violations
9 according to the extent to which the traffic law was violated.

10 **Sec. 9.** NRS 483.550 is hereby amended to read as follows:

11 483.550 1. ~~It is unlawful for any~~ *Except as otherwise*
12 *provided in this subsection, a person ~~to drive~~ who drives* a motor
13 vehicle upon a public street or highway in this State without being
14 the holder of a valid driver's license ~~is subject to a civil penalty~~
15 *of not more than \$250 to be imposed pursuant to sections 12 to 22,*
16 *inclusive, of this act. A person who drives a motor vehicle upon a*
17 *public street or highway in this State when the person is*
18 *disqualified from driving is guilty of a misdemeanor.*

19 2. The court shall ~~require~~ order any person ~~convicted of~~
20 *upon whom a civil penalty is imposed for* violating this section to
21 obtain a valid driver's license or produce a notice of disqualification
22 from the Department.

23 **Sec. 10.** NRS 483.620 is hereby amended to read as follows:

24 483.620 ~~It~~ *Except as otherwise provided in NRS 483.245*
25 *and 483.550, it is a misdemeanor for any person to violate any of*
26 *the provisions of NRS 483.010 to 483.630, inclusive, unless such*
27 *violation is, by NRS 483.010 to 483.630, inclusive, or other law of*
28 *this State, declared to be a felony.*

29 **Sec. 11.** Chapter 484A of NRS is hereby amended by adding
30 thereto the provisions set forth as sections 12 to 22, inclusive, of this
31 act.

32 **Sec. 12.** *A violation of a provision of chapters 484A to 484E,*
33 *inclusive, of NRS must be treated as a civil matter pursuant to*
34 *sections 12 to 22, inclusive, of this act, unless a provision of those*
35 *chapters specifically provides that a particular violation is a*
36 *misdemeanor, gross misdemeanor or felony.*

37 **Sec. 13. 1.** *Municipal courts and justice courts have*
38 *concurrent jurisdiction over all violations of a provision of*
39 *chapters 484A to 484E, inclusive, of NRS which must be treated as*
40 *a civil matter pursuant to sections 12 to 22, inclusive, of this act*
41 *and which are committed within their boundaries by persons 18*
42 *years of age or older.*

43 2. *Municipal courts and justice courts have concurrent*
44 *jurisdiction over civil traffic violations committed within their*



1 *boundaries by persons under 18 years of age if the juvenile court*
2 *has transferred the case pursuant to NRS 62B.380.*

3 **Sec. 14. 1.** *A case involving a civil traffic violation is*
4 *commenced by the issuance or filing of a traffic citation pursuant*
5 *to sections 12 to 22, inclusive, of this act.*

6 **2.** *Except as otherwise provided in this subsection, a case*
7 *involving a civil traffic violation must be commenced within 60*
8 *days after the alleged violation of chapters 484A to 484E,*
9 *inclusive, of NRS. Except as otherwise provided in this subsection,*
10 *if an alleged violation of chapters 484A to 484E, inclusive, of NRS*
11 *that must be treated as a civil matter pursuant to sections 12 to 22,*
12 *inclusive, of this act is under investigation in conjunction with a*
13 *traffic accident, a case involving a civil traffic violation must be*
14 *commenced within 180 days after the alleged violation. If an*
15 *alleged violation of chapters 484A to 484E, inclusive, of NRS that*
16 *must be treated as a civil matter pursuant to sections 12 to 22,*
17 *inclusive, of this act is under investigation in conjunction with a*
18 *traffic accident resulting in death or substantial bodily harm of*
19 *any person, the case involving a civil traffic violation must be*
20 *commenced within 1 year after the alleged violation.*

21 **3.** *If a case involving a civil traffic violation is commenced by*
22 *the filing of a traffic citation in a court having jurisdiction, the*
23 *traffic citation must be filed in the court within 60 days after the*
24 *alleged violation and be served within 90 days after the filing date.*

25 **Sec. 15.** *A traffic citation may be served by delivering a copy*
26 *of the traffic citation to the person charged with the violation or by*
27 *any means authorized by the Nevada Rules of Civil Procedure. At*
28 *the discretion of the issuing traffic enforcement agency, a traffic*
29 *citation issued after an investigation in conjunction with a traffic*
30 *accident may be sent by certified mail, return receipt requested*
31 *and delivered to the addressee only, to the address provided by the*
32 *person charged with the violation. Service of the traffic citation is*
33 *complete on filing the receipt in the court having jurisdiction of*
34 *the violation.*

35 **Sec. 16.** *A peace officer or a duly authorized member or*
36 *volunteer of a traffic enforcement agency in this State who has*
37 *reasonable cause to believe that a person has violated a provision*
38 *of chapters 484A to 484E, inclusive, of NRS that must be treated*
39 *as a civil matter pursuant to sections 12 to 22, inclusive, of this act*
40 *may stop and detain the person as is reasonably necessary to*
41 *investigate the alleged violation and to serve a copy of a traffic*
42 *citation for the alleged violation.*

43 **Sec. 17. 1.** *When a person is halted by a peace officer or a*
44 *duly authorized member or volunteer of a traffic enforcement*
45 *agency in this State for any violation of chapters 484A to 484E,*



1 *inclusive, of NRS that must be treated as a civil matter pursuant to*
2 *sections 12 to 22, inclusive, of this act, the peace officer, member*
3 *or volunteer may prepare a traffic citation manually or*
4 *electronically in the form of a complaint issuing in the name of*
5 *“The State of Nevada,” containing a notice to appear in court, the*
6 *name and address of the person, the state registration number of*
7 *the person’s vehicle, if any, the number of the person’s driver’s*
8 *license, if any, the violation alleged, including a brief description*
9 *of the violation and the NRS citation, the time when and place*
10 *where the person is required to appear in court, and such other*
11 *pertinent information as may be necessary. The citation must be*
12 *signed by the peace officer, member or volunteer. If the citation is*
13 *prepared electronically, the officer, member or volunteer shall*
14 *sign the copy of the citation that is delivered to the person charged*
15 *with the violation.*

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

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

21 4. *The person charged with the violation may give his or her*
22 *written promise to appear in court by signing at least one copy of*
23 *the traffic citation prepared by the peace officer, member or*
24 *volunteer, in which event the peace officer, member or volunteer*
25 *shall deliver a copy of the citation to the person. If the citation is*
26 *prepared electronically, the officer, member or volunteer shall*
27 *deliver the signed copy of the citation to the person and shall*
28 *indicate on the electronic record of the citation whether the person*
29 *charged gave his or her written promise to appear. A copy of the*
30 *citation that is signed by the person charged or the electronic*
31 *record of the citation which indicates that the person charged gave*
32 *his or her written promise to appear suffices as proof of service.*

33 **Sec. 18. 1.** *A person served with a traffic citation for any*
34 *violation of chapters 484A to 484E, inclusive, of NRS that must be*
35 *treated as a civil matter pursuant to sections 12 to 22, inclusive, of*
36 *this act shall:*

37 (a) *Appear at the time and place stated in the traffic citation;*
38 *and*

39 (b) *Admit or deny the allegations stated in the traffic citation.*
40 *Allegations not denied at the time of appearance are deemed*
41 *admitted.*

42 2. *If the allegations stated in the traffic citation are admitted,*
43 *the court must enter judgment for the State and impose a civil*
44 *penalty. In determining the civil penalty, the court shall consider*
45 *the explanation submitted.*



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1 3. *If the person served with the traffic citation denies the*
2 *allegations stated in the traffic citation, the court must set the*
3 *matter for a hearing. The hearing is informal and without a jury.*
4 *At the hearing, the State is required to prove the violation charged*
5 *by a preponderance of the evidence. Technical rules of evidence*
6 *do not apply, except for statutory provisions relating to privileged*
7 *communications. If the person elects to be represented by counsel,*
8 *he or she must notify the court at least 10 days before the hearing*
9 *date. If the court finds in favor of the person served with a traffic*
10 *citation, the court must enter an order dismissing the traffic*
11 *citation. If the court finds in favor of the State, the court must*
12 *enter judgment for the State and impose a civil penalty for the*
13 *violation.*

14 4. *The State and the person served with the traffic citation*
15 *may subpoena witnesses as provided by NRS 174.305. Witnesses*
16 *are not entitled to fees for appearing in connection with a case*
17 *involving a civil traffic violation.*

18 5. *Except as otherwise provided in sections 12 to 22,*
19 *inclusive, of this act, the rules of civil procedure do not apply to a*
20 *case involving a civil traffic violation.*

21 6. *If a person served with a traffic citation for an alleged*
22 *violation of chapters 484A to 484E, inclusive, of NRS that must be*
23 *treated as a civil matter pursuant to sections 12 to 22, inclusive, of*
24 *this act fails to appear at the time directed to appear or at the time*
25 *set for a hearing by the court, the court shall enter judgment for*
26 *the State and impose a civil penalty for the violation.*

27 **Sec. 19.** *Except as otherwise provided by specific statute, a*
28 *civil penalty imposed for a violation of chapters 484A to 484E,*
29 *inclusive, of NRS that must be treated as a civil matter pursuant to*
30 *sections 12 to 22, inclusive, of this act must not exceed \$250. In*
31 *addition to any civil penalty imposed pursuant to this section, the*
32 *justice or judge shall include in the judgment imposing the civil*
33 *penalty the sum prescribed for the administrative assessments set*
34 *forth in NRS 176.059, 176.0611 and 176.0613 and the money*
35 *collected for those administrative assessments must be applied and*
36 *distributed in the manner set forth in those sections.*

37 **Sec. 20.** *An admission of the allegations contained in a*
38 *traffic citation for an alleged violation of chapters 484A to 484E,*
39 *inclusive, of NRS that must be treated as a civil matter pursuant to*
40 *sections 12 to 22, inclusive, of this act is not evidence of*
41 *negligence in a civil or criminal proceeding that is not authorized*
42 *by chapters 484A to 484E, inclusive, of NRS.*

43 **Sec. 21.** *A party may appeal the judgment of a court*
44 *imposing a civil penalty pursuant to sections 12 to 22, inclusive, of*
45 *this act. The appeal may be to the district court in the same*



1 manner as any other civil appeal from a municipal court or justice
2 court to the district court. The posting of an appeal bond stays
3 enforcement of the judgment.

4 **Sec. 22. 1.** Except as otherwise provided in this subsection,
5 a person shall pay all civil penalties and administrative
6 assessments imposed pursuant to sections 12 to 22, inclusive, of
7 this act, within 30 days after entry of the judgment imposing the
8 civil penalty and administrative assessments. If the court finds that
9 satisfaction of a judgment within 30 days will place an undue
10 economic burden on a person, the court may extend the time for
11 payment or may provide for installment payments. If the judgment
12 is not satisfied within the time for payment prescribed by the court
13 or if an installment payment is not paid when due, the court may
14 declare the entire amount of the judgment due. If the court
15 declares the entire amount of the judgment due, the clerk of the
16 court must notify the Department pursuant to NRS 483.465.

17 **2.** If a civil penalty or administrative assessment imposed
18 pursuant to sections 12 to 22, inclusive, of this act, or any part of
19 it, remains unpaid after the time established by the court for its
20 payment, the defendant is liable for a collection fee, to be imposed
21 by the court at the time it finds that the civil penalty or
22 administrative assessment is delinquent, of not more than \$100.

23 **3.** Notwithstanding the provisions of subsections 1 and 2, the
24 court must not initiate collection procedures on an unsatisfied
25 judgment for a civil penalty and administrative assessments
26 imposed pursuant to sections 12 to 22, inclusive, of this act and the
27 court clerk must not notify the Department pursuant to NRS
28 483.465 if:

29 (a) The unsatisfied judgment is for a traffic violation for which
30 the final disposition occurs more than 36 months before the court
31 initiates collection proceedings;

32 (b) The court does not have a paper or electronic record dated
33 within 36 months after the traffic violation occurs indicating that
34 the responsible person was notified that the judgment is
35 unsatisfied and due;

36 (c) The clerk of the court has not notified the Department
37 pursuant to NRS 483.465; and

38 (d) The court does not have a record of extending the time for
39 satisfying the judgment or providing for installment payments.

40 **4.** If, pursuant to subsection 3, the court is prohibited from
41 initiating collection procedures on an unsatisfied judgment or the
42 clerk of the court is prohibited from notifying the Department
43 pursuant to NRS 483.465, the clerk of the court must notify the
44 Department and the Department must remove the violation from
45 the person's driving record.



1 **Sec. 23.** NRS 484A.400 is hereby amended to read as follows:
2 484A.400 1. The provisions of chapters 484A to 484E,
3 inclusive, of NRS are applicable and uniform throughout this State
4 on all highways to which the public has a right of access or to which
5 persons have access as invitees or licensees.

6 2. Except as otherwise provided in ~~subsection~~ *subsections 3*
7 *and 4* and unless otherwise provided by specific statute, any local
8 authority may enact by ordinance traffic regulations which cover the
9 same subject matter as the various sections of chapters 484A to
10 484E, inclusive, of NRS if the provisions of the ordinance are not in
11 conflict with chapters 484A to 484E, inclusive, of NRS, or
12 regulations adopted pursuant thereto. It may also enact by ordinance
13 regulations requiring the registration and licensing of bicycles.

14 3. *An ordinance enacting traffic regulations must provide for*
15 *the imposition of a civil penalty for a violation of the ordinance if*
16 *the ordinance covers the same subject matter as a provision of*
17 *chapters 484A to 484E, inclusive, of NRS that must be treated as a*
18 *civil matter pursuant to sections 12 to 22, inclusive, of this act.*

19 4. A local authority shall not enact an ordinance:

20 (a) Governing the registration of vehicles and the licensing of
21 drivers;

22 (b) Governing the duties and obligations of persons involved in
23 traffic accidents, other than the duties to stop, render aid and provide
24 necessary information;

25 (c) Providing a penalty for an offense for which the penalty
26 prescribed by chapters 484A to 484E, inclusive, of NRS is greater
27 than that imposed for a misdemeanor; or

28 (d) Requiring a permit for a vehicle, or to operate a vehicle, on a
29 highway in this State.

30 ~~4.~~ 5. No person convicted or adjudged guilty or guilty but
31 mentally ill of, *or found liable for a civil penalty for*, a violation of
32 a traffic ordinance may be charged or tried in any other court in this
33 State for the same offense.

34 **Sec. 24.** NRS 484A.660 is hereby amended to read as follows:

35 484A.660 Except for felonies and those offenses set forth in
36 paragraphs (a) to (e), inclusive, of subsection 1 of NRS 484A.710, a
37 peace officer at the scene of a traffic accident may issue a traffic
38 citation, as provided in NRS 484A.630 ~~4.~~ *or sections 12 to 22,*
39 *inclusive, of this act*, or a misdemeanor citation, as provided in NRS
40 171.1773, to any person involved in the accident when, based upon
41 personal investigation, the peace officer has reasonable and probable
42 grounds to believe that the person has committed any offense
43 pursuant to the provisions of chapters 482 to 486, inclusive, or 706
44 of NRS in connection with the accident.



1 **Sec. 25.** NRS 484A.670 is hereby amended to read as follows:
2 484A.670 1. It is ~~unlawful~~ *a misdemeanor* for a person to
3 violate a written promise to appear given to a peace officer upon the
4 issuance of a traffic citation prepared manually or electronically ~~+~~
5 *for an alleged violation that is punishable as a misdemeanor,*
6 regardless of the disposition of the charge for which the citation was
7 originally issued.

8 2. Except as otherwise provided in this subsection, a person
9 may comply with a written promise to appear in court by an
10 appearance by counsel. A person who has been convicted of two or
11 more moving traffic violations in unrelated incidents within a 12-
12 month period and is subsequently arrested or issued a citation within
13 that 12-month period shall appear personally in court with or
14 without counsel.

15 3. A warrant may issue upon a violation of a written promise to
16 appear ~~+~~ , *unless the written promise to appear was given*
17 *pursuant to a citation that must be treated as a civil matter*
18 *pursuant to sections 12 to 22, inclusive, of this act.*

19 **Sec. 26.** NRS 484A.680 is hereby amended to read as follows:

20 484A.680 1. Every peace officer upon issuing a traffic
21 citation to an alleged violator of any provision of the motor vehicle
22 laws of this State or of any traffic ordinance of any city or town
23 shall file manually or, if the provisions of subsection 2 are satisfied,
24 file electronically the original or a copy of the traffic citation with a
25 court having jurisdiction over the alleged offense or with its traffic
26 violations bureau.

27 2. A copy of a traffic citation that is prepared electronically and
28 issued to an alleged violator of any provision of the motor vehicle
29 laws of this State or of any traffic ordinance of any city or town may
30 be filed electronically with a court having jurisdiction over the
31 alleged offense or with its traffic violations bureau if the court or
32 traffic violations bureau, respectively:

- 33 (a) Authorizes such electronic filing;
34 (b) Has the ability to receive and store the citation
35 electronically; and
36 (c) Has the ability to physically reproduce the citation upon
37 request.

38 3. Upon the filing of the original or a copy of the traffic
39 citation with a court having jurisdiction over the alleged offense or
40 with its traffic violations bureau, the traffic citation may be disposed
41 of only by trial in that court or other official action by a judge of that
42 court, including forfeiture of the bail, or by the deposit of sufficient
43 bail with, or payment of a fine to, the traffic violations bureau by the
44 person to whom the traffic citation has been issued by the peace
45 officer.



1 4. It is ~~unlawful~~ *a misdemeanor* and official misconduct for
2 any peace officer or other officer or public employee to dispose of a
3 traffic citation or copies of it or of the record of the issuance of a
4 traffic citation in a manner other than as required in this section.

5 5. The chief administrative officer of every traffic enforcement
6 agency shall require the return to him or her of a physical copy or
7 electronic record of every traffic citation issued by an officer under
8 his or her supervision to an alleged violator of any traffic law or
9 ordinance and of all physical copies or electronic records of every
10 traffic citation which has been spoiled or upon which any entry has
11 been made and not issued to an alleged violator.

12 6. The chief administrative officer shall also maintain or cause
13 to be maintained a record of every traffic citation issued by officers
14 under his or her supervision. The record must be retained for at least
15 2 years after issuance of the citation.

16 7. As used in this section, "officer" includes a volunteer
17 appointed to a traffic enforcement agency pursuant to
18 NRS 484B.470.

19 **Sec. 27.** NRS 484A.700 is hereby amended to read as follows:

20 484A.700 1. A traffic citation for a parking violation may be
21 prepared manually or electronically.

22 2. When a traffic citation for a parking violation *that is*
23 *punishable as a misdemeanor* has been issued identifying by
24 license number a vehicle registered to a person who has not signed
25 the citation, a bench warrant may not be issued for that person for
26 failure to appear before the court unless:

27 (a) A notice to appear concerning the violation is first sent to the
28 person by first-class mail within 60 days after the citation is issued;
29 and

30 (b) The person does not appear within 20 days after the date of
31 the notice or the notice to appear is returned with a report that it
32 cannot be delivered.

33 **Sec. 28.** NRS 484A.720 is hereby amended to read as follows:

34 484A.720 Whenever any person is halted by a peace officer for
35 any violation of chapters 484A to 484E, inclusive, of NRS not
36 amounting to a gross misdemeanor or felony ~~H~~ *or that is not*
37 *required to be treated as a civil matter pursuant to sections 12 to*
38 *22, inclusive, of this act*, the person shall be taken without
39 unnecessary delay before the proper magistrate, as specified in NRS
40 484A.750, in either of the following cases:

41 1. When the person demands an immediate appearance before
42 a magistrate; or

43 2. In any other event when the person is issued a traffic citation
44 by an authorized person and refuses to give a written promise to
45 appear in court as provided in NRS 484A.630.



1 **Sec. 29.** NRS 484A.730 is hereby amended to read as follows:
2 484A.730 Whenever any person is halted by a peace officer for
3 any violation of chapters 484A to 484E, inclusive, of NRS *that is*
4 *not required to be treated as a civil matter pursuant to sections 12*
5 *to 22, inclusive, of this act* and is not required to be taken before a
6 magistrate, the person may, in the discretion of the peace officer,
7 either be given a traffic citation, or be taken without unnecessary
8 delay before the proper magistrate. The person must be taken before
9 the magistrate in any of the following cases:

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

14 2. When the person is charged with a violation of NRS
15 484D.580 relating to the refusal of a driver of a vehicle to submit
16 the vehicle to an inspection and test;

17 3. When the person is charged with a violation of NRS
18 484D.675 relating to the failure or refusal of a driver of a vehicle to
19 submit the vehicle and load to a weighing or to remove excess
20 weight therefrom; or

21 4. When the person is charged with a violation of NRS
22 484C.110 or 484C.120, unless the person is incapacitated and is
23 being treated for injuries at the time the peace officer would
24 otherwise be taking the person before the magistrate.

25 **Sec. 30.** NRS 484A.900 is hereby amended to read as follows:

26 484A.900 ~~1. It is unlawful and, unless otherwise declared in~~
27 ~~chapters 484A to 484E, inclusive, of NRS with respect to a~~
28 ~~particular offense, it is a misdemeanor for any person to do any act~~
29 ~~forbidden or fail to perform any act required in chapters 484A to~~
30 ~~484E, inclusive, of NRS.~~

31 ~~—2. The court may order any person who is twice convicted of,~~
32 ~~or found liable for a civil penalty for, violating a provision of~~
33 ~~chapters 484A to 484E, inclusive, of NRS to pay tuition for and~~
34 ~~attend a school for driver training which is approved by the~~
35 ~~Department for retraining such drivers. The person so ordered may~~
36 ~~choose from those so approved the school which the person will~~
37 ~~attend. A person who willfully fails to comply with such an order is~~
38 ~~guilty of a misdemeanor.~~

39 **Sec. 31.** NRS 484B.100 is hereby amended to read as follows:

40 484B.100 It is ~~unlawful~~ **a misdemeanor** for any person
41 willfully to fail or refuse to comply with any lawful order or
42 direction of any police officer while the officer is performing the
43 duties of the officer in the enforcement of chapters 484A to 484E,
44 inclusive, of NRS.



1 **Sec. 32.** NRS 484B.130 is hereby amended to read as follows:
2 484B.130 1. Except as otherwise provided in subsections 2
3 and 6, a person who is convicted of , *or subject to a civil penalty*
4 *for*, a violation of a speed limit, or of NRS 484B.150, 484B.163,
5 484B.165, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227,
6 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330,
7 484B.403, 484B.587, 484B.600, 484B.603, 484B.650, 484B.653,
8 484B.657, 484C.110 or 484C.120, that occurred:

9 (a) In an area designated as a temporary traffic control zone; and
10 (b) At a time when the workers who are performing
11 construction, maintenance or repair of the highway or other work
12 are present, or when the effects of the act may be aggravated
13 because of the condition of the highway caused by construction,
14 maintenance or repair, including, without limitation, reduction in
15 lane width, reduction in the number of lanes, shifting of lanes from
16 the designated alignment and uneven or temporary surfaces,
17 including, without limitation, modifications to road beds, cement-
18 treated bases, chip seals and other similar conditions,

19 ➤ shall be punished by imprisonment or by a fine, or both, for a
20 term or an amount equal to and in addition to the term of
21 imprisonment or amount of the fine, or both, that the court imposes
22 for the primary offense ~~+~~ *or for an amount equal to and in*
23 *addition to the civil penalty imposed by the court pursuant to*
24 *sections 12 to 22, inclusive, of this act.* Any term of imprisonment
25 imposed pursuant to this subsection runs consecutively with the
26 sentence prescribed by the court for the crime. This subsection does
27 not create a separate offense, but provides an additional penalty for
28 the primary offense, whose imposition is contingent upon the
29 finding of the prescribed fact.

30 2. The additional penalty imposed pursuant to subsection 1
31 must not exceed a total of \$1,000, 6 months of imprisonment or 120
32 hours of community service.

33 3. Except as otherwise provided in subsection 5, a
34 governmental entity that designates an area or authorizes the
35 designation of an area as a temporary traffic control zone in which
36 construction, maintenance or repair of a highway or other work is
37 conducted, or the person with whom the governmental entity
38 contracts to provide such service, shall cause to be erected:

39 (a) A sign located before the beginning of such an area stating
40 "DOUBLE PENALTIES IN WORK ZONES" to indicate a double
41 penalty may be imposed pursuant to this section;

42 (b) A sign to mark the beginning of the temporary traffic control
43 zone; and

44 (c) A sign to mark the end of the temporary traffic control zone.



1 4. A person who otherwise would be subject to an additional
2 penalty pursuant to this section is not relieved of any criminal *or*
3 *civil* liability because signs are not erected as required by subsection
4 3 if the violation results in injury to any person performing highway
5 construction or maintenance or other work in the temporary traffic
6 control zone or in damage to property in an amount equal to \$1,000
7 or more.

8 5. The requirements of subsection 3 do not apply to an area
9 designated as a temporary traffic control zone:

10 (a) Pursuant to an emergency which results from a natural or
11 other disaster and which threatens the health, safety or welfare of
12 the public; or

13 (b) On a public highway where the posted speed limit is 25
14 miles per hour or less and that provides access to or is appurtenant
15 to a residential area.

16 6. A person who would otherwise be subject to an additional
17 penalty pursuant to this section is not subject to an additional
18 penalty if the violation occurred in a temporary traffic control zone
19 for which signs are not erected pursuant to subsection 5, unless the
20 violation results in injury to any person performing highway
21 construction or maintenance or other work in the temporary traffic
22 control zone or in damage to property in an amount equal to \$1,000
23 or more.

24 **Sec. 33.** NRS 484B.150 is hereby amended to read as follows:

25 484B.150 1. It is ~~unlawful~~ *a misdemeanor* for a person to
26 drink an alcoholic beverage while the person is driving or in actual
27 physical control of a motor vehicle upon a highway.

28 2. Except as otherwise provided in this subsection, it is
29 ~~unlawful~~ *a misdemeanor* for a person to have an open container of
30 an alcoholic beverage within the passenger area of a motor vehicle
31 while the motor vehicle is upon a highway. This subsection does not
32 apply to a motor vehicle which is designed, maintained or used
33 primarily for the transportation of persons for compensation, or to
34 the living quarters of a house coach or house trailer.

35 3. A person who violates any provision of this section may be
36 subject to the additional penalty set forth in NRS 484B.130.

37 4. As used in this section:

38 (a) "Alcoholic beverage" has the meaning ascribed to it in
39 NRS 202.015.

40 (b) "Open container" means a container which has been opened
41 or the seal of which has been broken.

42 (c) "Passenger area" means that area of a vehicle which is
43 designed for the seating of the driver or a passenger.



1 **Sec. 34.** NRS 484B.317 is hereby amended to read as follows:
2 484B.317 1. A person shall not, without lawful authority,
3 attempt to or alter, deface, injure, knock down or remove any
4 official traffic-control device or any railroad sign or signal or any
5 inscription, shield or insigne thereon, or any other part thereof.

6 2. A person who violates any provision of this section *is guilty*
7 *of a misdemeanor and* may be subject to the additional penalty set
8 forth in NRS 484B.130.

9 **Sec. 35.** NRS 484B.330 is hereby amended to read as follows:
10 484B.330 1. It is ~~unlawful~~ *a misdemeanor* for a driver of a
11 vehicle to fail or refuse to comply with any signal of an authorized
12 flagger serving in a traffic control capacity in a clearly marked area
13 of highway construction or maintenance or any other area which has
14 been designated as a temporary traffic control zone.

15 2. A district attorney shall prosecute all violations of
16 subsection 1 which occur in his or her jurisdiction and which result
17 in injury to any person performing highway construction or
18 maintenance or performing other work within an area designated as
19 a temporary traffic control zone unless the district attorney has good
20 cause for not prosecuting the violation. In addition to any other
21 penalty, if a driver violates any provision of subsection 1 and the
22 violation results in injury to any person performing highway
23 construction or maintenance or performing other work within an
24 area designated as a temporary traffic control zone, or in damage to
25 property in an amount of not less than \$1,000, the driver shall be
26 punished by a fine of not less than \$1,000 or more than \$2,000, and
27 ordered to perform 120 hours of community service.

28 3. A person who violates any provision of subsection 1 may be
29 subject to the additional penalty set forth in subsection 1 of
30 NRS 484B.130.

31 4. As used in this section, "authorized flagger serving in a
32 traffic control capacity" means:

33 (a) An employee of the Department of Transportation or of a
34 contractor performing highway construction or maintenance or
35 performing other work within an area designated as a temporary
36 traffic control zone for the Department of Transportation while the
37 employee is carrying out the duties of his or her employment;

38 (b) An employee of any other governmental entity or of a
39 contractor performing highway construction or maintenance or
40 performing other work within an area designated as a temporary
41 traffic control zone for the governmental entity while the employee
42 is carrying out the duties of his or her employment; or

43 (c) Any other person employed by a private entity performing
44 highway construction or maintenance or performing other work
45 within an area designated as a temporary traffic control zone while



1 the person is carrying out the duties of his or her employment if the
2 person has satisfactorily completed training as a flagger approved or
3 recognized by the Department of Transportation.

4 **Sec. 36.** NRS 484C.470 is hereby amended to read as follows:
5 484C.470 1. A person required to install a device pursuant to
6 NRS 484C.460 shall not operate a motor vehicle without a device or
7 tamper with the device.

8 2. A person who violates any provision of subsection 1:
9 (a) Must have his or her driving privilege revoked in the manner
10 set forth in subsection 4 of NRS 483.460; and

11 (b) ~~Shall~~ *Is guilty of a misdemeanor and shall be:*

12 (1) Punished by imprisonment in jail for not less than 30
13 days nor more than 6 months; or

14 (2) Sentenced to a term of not less than 60 days in residential
15 confinement nor more than 6 months, and by a fine of not less than
16 \$500 nor more than \$1,000.

17 ↪ No person who is punished pursuant to this section may be
18 granted probation, and no sentence imposed for such a violation
19 may be suspended. No prosecutor may dismiss a charge of such a
20 violation in exchange for a plea of guilty, guilty but mentally ill or
21 nolo contendere to a lesser charge or for any other reason unless, in
22 the judgment of the attorney, the charge is not supported by
23 probable cause or cannot be proved at trial.

24 **Sec. 37.** NRS 485.187 is hereby amended to read as follows:
25 485.187 1. Except as otherwise provided in subsection 5, the
26 owner of a motor vehicle shall not:

27 (a) Operate the motor vehicle, if it is registered or required to be
28 registered in this State, without having insurance as required by
29 NRS 485.185.

30 (b) Operate or knowingly permit the operation of the motor
31 vehicle without having evidence of insurance of the operator or the
32 vehicle in the vehicle.

33 (c) Fail or refuse to surrender, upon demand, to a peace officer
34 or to an authorized representative of the Department the evidence of
35 insurance.

36 (d) Knowingly permit the operation of the motor vehicle in
37 violation of subsection 3 of NRS 485.186.

38 2. A person shall not operate the motor vehicle of another
39 person unless the person who will operate the motor vehicle:

40 (a) First ensures that the required evidence of insurance is
41 present in the motor vehicle; or

42 (b) Has his or her own evidence of insurance which covers that
43 person as the operator of the motor vehicle.

44 3. Except as otherwise provided in *this subsection and*
45 subsection 4, ~~any person who violates subsection 1 or 2 is guilty of~~



1 ~~a misdemeanor.~~ *a violation of subsection 1 or 2 must be treated as*
2 *a civil matter pursuant to sections 12 to 22, inclusive, of this act.*
3 Except as otherwise provided in this subsection, ~~in addition to~~
4 ~~any other penalty,~~ a person ~~sentenced pursuant to this subsection~~
5 ~~shall be punished by a fine~~ *who violates a provision of subsection*
6 *1 or 2 is subject to a civil penalty* of not less than \$600 nor more
7 than \$1,000 for each violation. The ~~fine~~ *civil penalty* must be
8 reduced to \$100 for the first violation if the person obtains a motor
9 vehicle liability policy by the time ~~of sentencing,~~ *at which a court*
10 *imposes the civil penalty*, unless:

11 (a) The person has registered the vehicle as part of a fleet of
12 vehicles pursuant to subsection 5 of NRS 482.215; or

13 (b) The person has been issued a certificate of self-insurance
14 pursuant to NRS 485.380.

15 4. A court:

16 (a) Shall not ~~find a person guilty or fine~~ *impose a civil penalty*
17 *on* a person for a violation of paragraph (a), (b) or (c) of subsection
18 1 or for a violation of subsection 2 if the person presents evidence to
19 the court that the insurance required by NRS 485.185 was in effect
20 at the time demand was made for it.

21 (b) Except as otherwise provided in paragraph (a), may impose a
22 ~~fine~~ *civil penalty* of not more than \$1,000 for a violation of
23 paragraph (a), (b) or (c) of subsection 1, and suspend the balance of
24 the fine on the condition that the person presents proof to the court
25 each month for 12 months that the insurance required by NRS
26 485.185 is currently in effect.

27 5. The provisions of paragraphs (b) and (c) of subsection 1 do
28 not apply if the motor vehicle in question displays a valid permit
29 issued by the Department pursuant to subsection 1 or 2 of NRS
30 482.3955, or NRS 482.396 or 482.3965 authorizing the movement
31 or operation of that vehicle within the State for a limited time.

32 **Sec. 38.** NRS 485.326 is hereby amended to read as follows:

33 485.326 1. The Department shall suspend the license of any
34 person ~~convicted of violating~~ *against whom a judgment for a civil*
35 *penalty is entered pursuant to sections 12 to 22, inclusive, of this*
36 *act for a violation of* the provisions of paragraph (a) of subsection 1
37 of NRS 485.187.

38 2. Any license suspended pursuant to subsection 1 must remain
39 suspended until the person shows proof of financial responsibility as
40 set forth in NRS 485.307. The person shall maintain proof of
41 financial responsibility for 3 years after the reinstatement of his or
42 her license pursuant to the provisions of this chapter, and if the
43 person fails to do so, the Department shall suspend any license
44 previously suspended pursuant to subsection 1.



1 **Sec. 39.** NRS 486.381 is hereby amended to read as follows:
2 486.381 Any ~~{person violating any provisions}~~ violation of a
3 provision of NRS 486.011 to 486.361, inclusive, ~~{is guilty of a~~
4 ~~misdemeanor.}~~ *must be treated as a civil matter pursuant to*
5 *sections 12 to 22, inclusive, of this act, and a person who violates*
6 *any provision of NRS 486.011 to 486.361, inclusive, is subject to a*
7 *civil penalty of not more than \$250.*

8 **Sec. 40.** NRS 62A.220 is hereby amended to read as follows:
9 62A.220 “Minor traffic offense” means a violation of any state
10 or local law or ordinance governing the operation of a motor vehicle
11 upon any highway within this State other than:

- 12 1. A violation of chapters 484A to 484E, inclusive, or 706 of
13 NRS that causes the death of a person;
- 14 2. A violation of NRS 484C.110 or 484C.120; ~~{or}~~
- 15 3. A violation declared to be a felony ~~{}~~; *or*
- 16 4. *A violation of a provision of chapters 482 to 486, inclusive,*
17 *of NRS that must be treated as a civil matter pursuant to sections*
18 *12 to 22, inclusive, of this act.*

19 **Sec. 41.** NRS 62B.380 is hereby amended to read as follows:
20 62B.380 1. ~~{If a child is charged with a minor traffic offense,~~
21 ~~the}~~ *The juvenile court has exclusive jurisdiction over proceedings*
22 *concerning any child who commits a minor traffic offense or who*
23 *violates a provision of chapters 482 to 486, inclusive, of NRS that*
24 *must be treated as a civil matter pursuant to sections 12 to 22,*
25 *inclusive, of this act. The juvenile court may transfer the case and*
26 *record to a Justice Court or municipal court if the juvenile court*
27 *determines that the transfer is in the best interests of the child.*

28 2. If a case is transferred pursuant to this section:

29 (a) ~~{The}~~ *If the case concerns a child who commits a minor*
30 *traffic offense, the restrictions set forth in NRS 62C.030 are*
31 *applicable in those proceedings; ~~{and}~~*

32 (b) *If the case concerns a child who violates a provision of*
33 *chapters 482 to 486, inclusive, of NRS that must be treated as a*
34 *civil matter pursuant to sections 12 to 22, inclusive, of this act, the*
35 *case must be processed, heard and disposed of in the same manner*
36 *and with the same penalties as provided in NRS 482.385, 482.545,*
37 *483.550, 485.187 and 486.381 and sections 12 to 22, inclusive, of*
38 *this act; and*

39 (c) A parent or guardian must accompany the child at all
40 proceedings.

41 3. If the juvenile court transfers a case and record to a Justice
42 Court or municipal court pursuant to this section, the Justice Court
43 or municipal court may transfer the case and record back to the
44 juvenile court with the consent of the juvenile court.



1 **4. If a case concerns a child who violates a provision of**
2 **chapters 482 to 486, inclusive, of NRS that must be treated as a**
3 **civil matter pursuant to sections 12 to 22, inclusive, of this act and**
4 **the case is not transferred pursuant to this section, the child must**
5 **not be treated as a child alleged to be in need of supervision or**
6 **delinquent and the juvenile court must not adjudicate the child**
7 **delinquent or in need of supervision. If the juvenile court finds**
8 **that the child committed the violation, the juvenile court must**
9 **impose the civil penalty authorized by the applicable provision of**
10 **NRS 482.385, 482.545, 483.550, 485.187 or 486.381 or sections 12**
11 **to 22, inclusive, of this act, and order the child or the parent or**
12 **guardian of the child, or both, to pay an administrative assessment**
13 **of \$10 in addition to the civil penalty. The administrative**
14 **assessment must be distributed in the manner provided by**
15 **NRS 62E.270.**

16 **Sec. 42.** NRS 62E.270 is hereby amended to read as follows:
17 62E.270 1. If the juvenile court imposes a *civil penalty*

18 *pursuant to NRS 62B.380 or a fine* against:
19 (a) A delinquent child pursuant to NRS 62E.730;
20 (b) A child who has committed a minor traffic offense, except
21 an offense related to metered parking, pursuant to NRS 62E.700;

22 ~~for~~
23 (c) *A child who violates a provision of chapters 482 to 486,*
24 *inclusive, of NRS that must be treated as a civil matter pursuant to*
25 *subsection 4 of NRS 62B.380; or*

26 (d) A child in need of supervision, or the parent or guardian of
27 the child, because the child is a habitual truant pursuant to
28 NRS 62E.430,
29 ↳ the juvenile court shall order the child or the parent or guardian
30 of the child to pay an administrative assessment of \$10 in addition
31 to the fine.

32 2. The juvenile court shall state separately on its docket the
33 amount of money that the juvenile court collects for the
34 administrative assessment.

35 3. If the child is found not to have committed the alleged act or
36 the charges are dropped, the juvenile court shall return to the child
37 or the parent or guardian of the child any money deposited with the
38 juvenile court for the administrative assessment.

39 4. On or before the fifth day of each month for the preceding
40 month, the clerk of the court shall pay to the county treasurer the
41 money the juvenile court collects for administrative assessments.

42 5. On or before the 15th day of each month, the county
43 treasurer shall deposit the money in the county general fund for
44 credit to a special account for the use of the county's juvenile court
45 or for services to delinquent children.



1 **Sec. 43.** NRS 176.059 is hereby amended to read as follows:
 2 176.059 1. Except as otherwise provided in subsection 2,
 3 when a defendant *is found liable for a civil penalty pursuant to*
 4 *sections 12 to 22, inclusive, of this act or* pleads guilty or guilty but
 5 mentally ill or is found guilty or guilty but mentally ill of a
 6 misdemeanor, including the violation of any municipal ordinance,
 7 the justice or judge shall include in the *civil judgment or* sentence
 8 the sum prescribed by the following schedule as an administrative
 9 assessment and render a judgment against the defendant for the
 10 assessment:

<i>Civil Penalty or Fine</i>	<i>Assessment</i>
\$5 to \$49.....	\$30
50 to 59.....	45
60 to 69.....	50
70 to 79.....	55
80 to 89.....	60
90 to 99.....	65
100 to 199.....	75
200 to 299.....	85
300 to 399.....	95
400 to 499.....	105
500 to 1,000.....	120

24
 25 If the justice or judge sentences the defendant to perform
 26 community service in lieu of a fine, the justice or judge shall include
 27 in the sentence the amount of the administrative assessment that
 28 corresponds with the fine for which the defendant would have been
 29 responsible as prescribed by the schedule in this subsection.

30 2. The provisions of subsection 1 do not apply to:
 31 (a) An ordinance regulating metered parking; or
 32 (b) An ordinance which is specifically designated as imposing a
 33 civil ~~[penalty or]~~ liability pursuant to NRS ~~[244.3575 or]~~ 268.019.

34 3. The money collected for an administrative assessment must
 35 not be deducted from the *civil penalty or* fine imposed by the justice
 36 or judge but must be taxed against the defendant in addition to the
 37 *civil penalty or* fine. The money collected for an administrative
 38 assessment must be stated separately on the court's docket and must
 39 be included in the amount posted for bail. If bail is forfeited, the
 40 administrative assessment included in the amount posted for bail
 41 pursuant to this subsection must be disbursed in the manner set forth
 42 in subsection 5 or 6. If the defendant is found not guilty or the
 43 charges are dismissed, the money deposited with the court must be
 44 returned to the defendant. If the justice or judge cancels a *civil*
 45 *penalty or* fine because the *civil penalty or* fine has been determined



1 to be uncollectible, any balance of the *civil penalty or* fine and the
2 administrative assessment remaining unpaid shall be deemed to be
3 uncollectible and the defendant is not required to pay it. If a *civil*
4 *penalty or* fine is determined to be uncollectible, the defendant is
5 not entitled to a refund of the *civil penalty or* fine or *the*
6 administrative assessment the defendant has paid and the justice or
7 judge shall not recalculate the administrative assessment.

8 4. If the justice or judge permits the *civil penalty or* fine and
9 *the* administrative assessment to be paid in installments, the
10 payments must be first applied to the unpaid balance of the
11 administrative assessment. The city treasurer shall distribute
12 partially collected administrative assessments in accordance with the
13 requirements of subsection 5. The county treasurer shall distribute
14 partially collected administrative assessments in accordance with the
15 requirements of subsection 6.

16 5. The money collected for administrative assessments in
17 municipal court must be paid by the clerk of the court to the city
18 treasurer on or before the fifth day of each month for the preceding
19 month. The city treasurer shall distribute, on or before the 15th day
20 of that month, the money received in the following amounts for each
21 assessment received:

22 (a) Two dollars to the county treasurer for credit to a special
23 account in the county general fund for the use of the county's
24 juvenile court or for services to juvenile offenders. Any money
25 remaining in the special account after 2 fiscal years must be
26 deposited in the county general fund if it has not been committed for
27 expenditure. The county treasurer shall provide, upon request by a
28 juvenile court, monthly reports of the revenue credited to and
29 expenditures made from the special account.

30 (b) Seven dollars for credit to a special revenue fund for the use
31 of the municipal courts. Any money remaining in the special
32 revenue fund after 2 fiscal years must be deposited in the municipal
33 general fund if it has not been committed for expenditure. The city
34 treasurer shall provide, upon request by a municipal court, monthly
35 reports of the revenue credited to and expenditures made from the
36 special revenue fund.

37 (c) Five dollars to the State Controller for credit to the State
38 General Fund.

39 (d) The remainder of each assessment to the State Controller for
40 credit to a special account in the State General Fund for distribution
41 as provided in subsection 8.

42 6. The money collected for administrative assessments in
43 justice courts must be paid by the clerk of the court to the county
44 treasurer on or before the fifth day of each month for the preceding
45 month. The county treasurer shall distribute, on or before the 15th



1 day of that month, the money received in the following amounts for
2 each assessment received:

3 (a) Two dollars for credit to a special account in the county
4 general fund for the use of the county's juvenile court or for services
5 to juvenile offenders. Any money remaining in the special account
6 after 2 fiscal years must be deposited in the county general fund if it
7 has not been committed for expenditure. The county treasurer shall
8 provide, upon request by a juvenile court, monthly reports of the
9 revenue credited to and expenditures made from the special account.

10 (b) Seven dollars for credit to a special revenue fund for the use
11 of the justice courts. Any money remaining in the special revenue
12 fund after 2 fiscal years must be deposited in the county general
13 fund if it has not been committed for expenditure. The county
14 treasurer shall provide, upon request by a justice court, monthly
15 reports of the revenue credited to and expenditures made from the
16 special revenue fund.

17 (c) Five dollars to the State Controller for credit to the State
18 General Fund.

19 (d) The remainder of each assessment to the State Controller for
20 credit to a special account in the State General Fund for distribution
21 as provided in subsection 8.

22 7. The money apportioned to a juvenile court, a justice court or
23 a municipal court pursuant to this section must be used, in addition
24 to providing services to juvenile offenders in the juvenile court, to
25 improve the operations of the court, or to acquire appropriate
26 advanced technology or the use of such technology, or both. Money
27 used to improve the operations of the court may include
28 expenditures for:

- 29 (a) Training and education of personnel;
- 30 (b) Acquisition of capital goods;
- 31 (c) Management and operational studies; or
- 32 (d) Audits.

33 8. Of the total amount deposited in the State General Fund
34 pursuant to paragraph (d) of subsection 5 and paragraph (d) of
35 subsection 6, the State Controller shall distribute the money
36 received to the following public agencies in the following manner:

37 (a) Not less than 51 percent to the Office of Court Administrator
38 for allocation as follows:

39 (1) Thirty-six and one-half percent of the amount distributed
40 to the Office of Court Administrator for:

- 41 (I) The administration of the courts;
- 42 (II) The development of a uniform system for judicial
43 records; and
- 44 (III) Continuing judicial education.



1 (2) Forty-eight percent of the amount distributed to the
2 Office of Court Administrator for the Supreme Court.

3 (3) Three and one-half percent of the amount distributed to
4 the Office of Court Administrator for the payment for the services of
5 retired justices and retired district judges.

6 (4) Twelve percent of the amount distributed to the Office of
7 Court Administrator for the provision of specialty court programs.

8 (b) Not more than 49 percent must be used to the extent of
9 legislative authorization for the support of:

10 (1) The Central Repository for Nevada Records of Criminal
11 History;

12 (2) The Peace Officers' Standards and Training Commission;

13 (3) The operation by the Department of Public Safety of a
14 computerized interoperative system for information related to law
15 enforcement;

16 (4) The Fund for the Compensation of Victims of Crime;

17 (5) The Advisory Council for Prosecuting Attorneys; and

18 (6) Programs within the Office of the Attorney General
19 related to victims of domestic violence.

20 9. Any money deposited in the State General Fund pursuant to
21 paragraph (d) of subsection 5 and paragraph (d) of subsection 6 that
22 is not distributed or used pursuant to paragraph (b) of subsection 8
23 must be transferred to the uncommitted balance of the State General
24 Fund.

25 10. As used in this section:

26 (a) "Juvenile court" has the meaning ascribed to it in
27 NRS 62A.180.

28 (b) "Office of Court Administrator" means the Office of Court
29 Administrator created pursuant to NRS 1.320.

30 **Sec. 44.** NRS 176.0611 is hereby amended to read as follows:

31 176.0611 1. A county or a city, upon recommendation of the
32 appropriate court, may, by ordinance, authorize the justices or
33 judges of the justice or municipal courts within its jurisdiction to
34 impose for not longer than 50 years, in addition to the administrative
35 assessments imposed pursuant to NRS 176.059 and 176.0613, an
36 administrative assessment for the provision of court facilities.

37 2. Except as otherwise provided in subsection 3, in any
38 jurisdiction in which an administrative assessment for the provision
39 of court facilities has been authorized, when a defendant *is found*
40 *liable for a civil penalty pursuant to sections 12 to 22, inclusive, of*
41 *this act or* pleads guilty or guilty but mentally ill or is found guilty
42 or guilty but mentally ill of a misdemeanor, including the violation
43 of any municipal ordinance, the justice or judge shall include in the
44 *civil judgment or* sentence the sum of \$10 as an administrative
45 assessment for the provision of court facilities and render a



1 judgment against the defendant for the assessment. If the justice or
2 judge sentences the defendant to perform community service in lieu
3 of a fine, the justice or judge shall include in the sentence the
4 administrative assessment required pursuant to this subsection.

5 3. The provisions of subsection 2 do not apply to:

6 (a) An ordinance regulating metered parking; or

7 (b) An ordinance that is specifically designated as imposing a
8 civil ~~[penalty or]~~ liability pursuant to NRS ~~[244.3575 or]~~ 268.019.

9 4. The money collected for an administrative assessment for
10 the provision of court facilities must not be deducted from the *civil*
11 *penalty or* fine imposed by the justice or judge but must be taxed
12 against the defendant in addition to the *civil penalty or* fine. The
13 money collected for such an administrative assessment must be
14 stated separately on the court's docket and must be included in the
15 amount posted for bail. If bail is forfeited, the administrative
16 assessment included in the amount posted for bail pursuant to this
17 subsection must be disbursed in the manner set forth in subsection 6
18 or 7. If the defendant is found not guilty or the charges are
19 dismissed, the money deposited with the court must be returned to
20 the defendant. If the justice or judge cancels a *civil penalty or* fine
21 because the fine has been determined to be uncollectible, any
22 balance of the *civil penalty or* fine and the administrative
23 assessment remaining unpaid shall be deemed to be uncollectible
24 and the defendant is not required to pay it. If a *civil penalty or* fine
25 is determined to be uncollectible, the defendant is not entitled to a
26 refund of the *civil penalty or* fine or *the* administrative assessment
27 the defendant has paid and the justice or judge shall not recalculate
28 the administrative assessment.

29 5. If the justice or judge permits the *civil penalty or* fine and
30 *the* administrative assessment for the provision of court facilities to
31 be paid in installments, the payments must be applied in the
32 following order:

33 (a) To pay the unpaid balance of an administrative assessment
34 imposed pursuant to NRS 176.059;

35 (b) To pay the unpaid balance of an administrative assessment
36 for the provision of court facilities pursuant to this section;

37 (c) To pay the unpaid balance of an administrative assessment
38 for the provision of specialty court programs pursuant to NRS
39 176.0613; and

40 (d) To pay the *civil penalty or* fine.

41 6. The money collected for administrative assessments for the
42 provision of court facilities in municipal courts must be paid by the
43 clerk of the court to the city treasurer on or before the fifth day of
44 each month for the preceding month. The city treasurer shall deposit



1 the money received in a special revenue fund. The city may use the
2 money in the special revenue fund only to:

3 (a) Acquire land on which to construct additional facilities for
4 the municipal courts or a regional justice center that includes the
5 municipal courts.

6 (b) Construct or acquire additional facilities for the municipal
7 courts or a regional justice center that includes the municipal courts.

8 (c) Renovate or remodel existing facilities for the municipal
9 courts.

10 (d) Acquire furniture, fixtures and equipment necessitated by the
11 construction or acquisition of additional facilities or the renovation
12 of an existing facility for the municipal courts or a regional justice
13 center that includes the municipal courts. This paragraph does not
14 authorize the expenditure of money from the fund for furniture,
15 fixtures or equipment for judicial chambers.

16 (e) Acquire advanced technology for use in the additional or
17 renovated facilities.

18 (f) Pay debt service on any bonds issued pursuant to subsection
19 3 of NRS 350.020 for the acquisition of land or facilities or the
20 construction or renovation of facilities for the municipal courts or a
21 regional justice center that includes the municipal courts.

22 ➤ Any money remaining in the special revenue fund after 5 fiscal
23 years must be deposited in the municipal general fund for the
24 continued maintenance of court facilities if it has not been
25 committed for expenditure pursuant to a plan for the construction or
26 acquisition of court facilities or improvements to court facilities.
27 The city treasurer shall provide, upon request by a municipal court,
28 monthly reports of the revenue credited to and expenditures made
29 from the special revenue fund.

30 7. The money collected for administrative assessments for the
31 provision of court facilities in justice courts must be paid by the
32 clerk of the court to the county treasurer on or before the fifth day of
33 each month for the preceding month. The county treasurer shall
34 deposit the money received to a special revenue fund. The county
35 may use the money in the special revenue fund only to:

36 (a) Acquire land on which to construct additional facilities for
37 the justice courts or a regional justice center that includes the justice
38 courts.

39 (b) Construct or acquire additional facilities for the justice
40 courts or a regional justice center that includes the justice courts.

41 (c) Renovate or remodel existing facilities for the justice courts.

42 (d) Acquire furniture, fixtures and equipment necessitated by the
43 construction or acquisition of additional facilities or the renovation
44 of an existing facility for the justice courts or a regional justice
45 center that includes the justice courts. This paragraph does not



1 authorize the expenditure of money from the fund for furniture,
2 fixtures or equipment for judicial chambers.

3 (e) Acquire advanced technology for use in the additional or
4 renovated facilities.

5 (f) Pay debt service on any bonds issued pursuant to subsection
6 3 of NRS 350.020 for the acquisition of land or facilities or the
7 construction or renovation of facilities for the justice courts or a
8 regional justice center that includes the justice courts.

9 **↪** Any money remaining in the special revenue fund after 5 fiscal
10 years must be deposited in the county general fund for the continued
11 maintenance of court facilities if it has not been committed for
12 expenditure pursuant to a plan for the construction or acquisition of
13 court facilities or improvements to court facilities. The county
14 treasurer shall provide, upon request by a justice court, monthly
15 reports of the revenue credited to and expenditures made from the
16 special revenue fund.

17 8. If money collected pursuant to this section is to be used to
18 acquire land on which to construct a regional justice center, to
19 construct a regional justice center or to pay debt service on bonds
20 issued for these purposes, the county and the participating cities
21 shall, by interlocal agreement, determine such issues as the size of
22 the regional justice center, the manner in which the center will be
23 used and the apportionment of fiscal responsibility for the center.

24 **Sec. 45.** NRS 176.0613 is hereby amended to read as follows:

25 176.0613 1. The justices or judges of the justice or municipal
26 courts shall impose, in addition to an administrative assessment
27 imposed pursuant to NRS 176.059 and 176.0611, an administrative
28 assessment for the provision of specialty court programs.

29 2. Except as otherwise provided in subsection 3, when a
30 defendant *is found liable for a civil penalty pursuant to sections 12*
31 *to 22, inclusive, of this act or* pleads guilty or guilty but mentally ill
32 or is found guilty or guilty but mentally ill of a misdemeanor,
33 including the violation of any municipal ordinance, the justice or
34 judge shall include in the *civil judgment or* sentence the sum of \$7
35 as an administrative assessment for the provision of specialty court
36 programs and render a judgment against the defendant for the
37 assessment. If a defendant is sentenced to perform community
38 service in lieu of a fine, the sentence must include the administrative
39 assessment required pursuant to this subsection.

40 3. The provisions of subsection 2 do not apply to:

41 (a) An ordinance regulating metered parking; or

42 (b) An ordinance which is specifically designated as imposing a
43 civil ~~penalty or~~ liability pursuant to NRS ~~244.3575 or~~ 268.019.

44 4. The money collected for an administrative assessment for
45 the provision of specialty court programs must not be deducted from



1 the *civil penalty or* fine imposed by the justice or judge but must be
2 taxed against the defendant in addition to the *civil penalty or* fine.
3 The money collected for such an administrative assessment must be
4 stated separately on the court's docket and must be included in the
5 amount posted for bail. If bail is forfeited, the administrative
6 assessment included in the bail pursuant to this subsection must be
7 disbursed pursuant to subsection 6 or 7. If the defendant is found not
8 guilty or the charges are dismissed, the money deposited with the
9 court must be returned to the defendant. If the justice or judge
10 cancels a *civil penalty or* fine because the *civil penalty or* fine has
11 been determined to be uncollectible, any balance of the *civil penalty*
12 *or* fine and the administrative assessment remaining unpaid shall be
13 deemed to be uncollectible and the defendant is not required to pay
14 it. If a *civil penalty or* fine is determined to be uncollectible, the
15 defendant is not entitled to a refund of the *civil penalty or* fine or
16 administrative assessment the defendant has paid and the justice or
17 judge shall not recalculate the administrative assessment.

18 5. If the justice or judge permits the *civil penalty or* fine and
19 administrative assessment for the provision of specialty court
20 programs to be paid in installments, the payments must be applied in
21 the following order:

22 (a) To pay the unpaid balance of an administrative assessment
23 imposed pursuant to NRS 176.059;

24 (b) To pay the unpaid balance of an administrative assessment
25 for the provision of court facilities pursuant to NRS 176.0611;

26 (c) To pay the unpaid balance of an administrative assessment
27 for the provision of specialty court programs; and

28 (d) To pay the *civil penalty or* fine.

29 6. The money collected for an administrative assessment for
30 the provision of specialty court programs in municipal court must be
31 paid by the clerk of the court to the city treasurer on or before the
32 fifth day of each month for the preceding month. On or before the
33 15th day of that month, the city treasurer shall deposit the money
34 received for each administrative assessment with the State
35 Controller for credit to a special account in the State General Fund
36 administered by the Office of Court Administrator.

37 7. The money collected for an administrative assessment for
38 the provision of specialty court programs in justice courts must be
39 paid by the clerk of the court to the county treasurer on or before the
40 fifth day of each month for the preceding month. On or before the
41 15th day of that month, the county treasurer shall deposit the money
42 received for each administrative assessment with the State
43 Controller for credit to a special account in the State General Fund
44 administered by the Office of Court Administrator.



* A B 2 4 8 *

1 8. The Office of Court Administrator shall allocate the money
2 credited to the State General Fund pursuant to subsections 6 and 7 to
3 courts to assist with the funding or establishment of specialty court
4 programs.

5 9. Money that is apportioned to a court from administrative
6 assessments for the provision of specialty court programs must be
7 used by the court to:

8 (a) Pay for the treatment and testing of persons who participate
9 in the program; and

10 (b) Improve the operations of the specialty court program by any
11 combination of:

12 (1) Acquiring necessary capital goods;

13 (2) Providing for personnel to staff and oversee the specialty
14 court program;

15 (3) Providing training and education to personnel;

16 (4) Studying the management and operation of the program;

17 (5) Conducting audits of the program;

18 (6) Supplementing the funds used to pay for judges to
19 oversee a specialty court program; or

20 (7) Acquiring or using appropriate technology.

21 10. As used in this section:

22 (a) "Office of Court Administrator" means the Office of Court
23 Administrator created pursuant to NRS 1.320; and

24 (b) "Specialty court program" means a program established by a
25 court to facilitate testing, treatment and oversight of certain persons
26 over whom the court has jurisdiction and who the court has
27 determined suffer from a mental illness or abuses alcohol or drugs.
28 Such a program includes, without limitation, a program established
29 pursuant to NRS 176A.250, 176A.280 or 453.580.

30 **Sec. 46.** NRS 244.3575 is hereby repealed.

TEXT OF REPEALED SECTION

244.3575 Ordinances regulating parking: Civil penalty in lieu of criminal sanction. A board of county commissioners may by ordinance provide that the violation of a specific ordinance regulating parking imposes a civil penalty in an amount not to exceed \$155, instead of a criminal sanction.



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Legislative Counsel Bureau, Research Division Publication
PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)
 Revised: July 2014

CATEGORY B FELONIES		
A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years. Fines are optional unless otherwise noted. Mandatory restitution is included for those sentences noted by an asterisk (*). (NRS 193.130)		
CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Aid or conceal child escaped from a state detention facility (63.610)	1 to 6 years	Not more than \$5,000
Securities: False or misleading information regarding publicly traded security (90.650)	1 to 20 years*	Not more than \$500,000
Attempted A felony (193.330)	2 to 20 years	No fine
Attempted B felony with maximum penalty of more than 10 years (193.330)	1 to 10 years	No fine
Treason (196.010)	2 to 10 years	No fine
Rescuing gross misdemeanor or misdemeanor prisoner, use of weapon (199.100)	1 to 6 years	Not more than \$5,000
Intimidating public officer, force involved and subsequent offense (199.300)	2 to 10 years	Not more than \$10,000
Substitution of child (199.370)	1 to 10 years	Not more than \$10,000
Conspiracy to commit robbery; sexual assault; kidnapping in first or second degrees; arson in the first or second degrees; involuntary servitude; assuming rights of ownership of another person; trafficking in persons; sex trafficking; or using personal identifying information unlawfully (199.480)	1 to 6 years	Not more than \$5,000
Conspiracy to commit murder (199.480)	2 to 10 years	Not more than \$5,000
Solicitation to commit murder (199.500)	2 to 15 years	Not more than \$10,000
Voluntary manslaughter (200.080)	1 to 10 years	Not more than \$10,000
Killing unborn quick child (200.210)	1 to 10 years	Not more than \$10,000
Woman taking drugs to terminate pregnancy, after 24th week (200.220)	1 to 10 years	Not more than \$10,000
Killing by overloading vessel, willful conduct (200.230)	1 to 10 years	Not more than \$10,000
Mayhem (200.280)	2 to 10 years	Not more than \$10,000
Kidnapping, second degree (200.330)	2 to 15 years	Not more than \$15,000
Aiding or abetting kidnapping in the second degree (200.340)	2 to 15 years	No fine
Robbery (200.380)	2 to 15 years	No fine
Battery with intent to commit mayhem, robbery, or grand larceny (200.400)	2 to 10 years	Not more than \$10,000
Battery with intent to kill (200.400)	2 to 20 years	No fine
Administration of a drug to aid commission of felony (200.405)	1 to 10 years	No fine
Administration of drug to aid commission of violent crime (200.408)	1 to 20 years	No fine
Challenges to fight or acting for another in challenge to fight; use of deadly weapon (200.450)	1 to 6 years	Not more than \$5,000
False imprisonment either by prisoner without deadly weapon or by other person with deadly weapon (200.460)	1 to 6 years	No fine
False imprisonment by prisoner with deadly weapon (200.460)	1 to 20 years	No fine
False imprisonment using person as a shield (200.460)	1 to 15 years	No fine
Involuntary servitude crimes (200.463)	5 to 20 years	Not more than \$50,000
Involuntary servitude crimes; substantial bodily harm (200.463)	7 to 20 years	Not more than \$50,000
Knowingly recruiting, transporting, or providing person for involuntary servitude or benefiting from involuntary servitude (200.464)	1 to 15 years	Not more than \$50,000
Sale or purchase of another person; related acts (200.465)	5 to 20 years	Not more than \$50,000
Trafficking in persons for financial gain (200.467)	1 to 10 years	Not more than \$50,000
Trafficking in persons for illegal purposes (200.468)	1 to 20 years	Not more than \$50,000
Assault with deadly weapon (200.471)	1 to 6 years	Not more than \$5,000
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official (200.471)	1 to 6 years	Not more than \$5,000

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CATEGORY B FELONIES		
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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Assault with a deadly weapon upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official by a probationer, prisoner, or parolee (200.471)	1 to 6 years	Not more than \$5,000
Battery upon an officer, school employee, health care provider, taxicab driver, transit officer, or sports official performing his duty, substantial bodily harm or strangulation (200.481)	2 to 10 years	Not more than \$10,000
Battery with a deadly weapon (200.481)	2 to 10 years	Not more than \$10,000
Battery with a deadly weapon, substantial bodily harm or strangulation (200.481)	2 to 15 years	Not more than \$10,000
Battery by prisoner, probationer, or parolee without a weapon (200.481)	1 to 6 years	No fine
Battery by a prisoner, probationer, or parolee with a deadly weapon (200.481)	2 to 10 years	No fine
Battery by a prisoner, probationer, or parolee with a deadly weapon, substantial bodily harm or strangulation (200.481)	2 to 15 years	No fine
Criminal neglect of patient, resulting in death (200.495)	1 to 20 years	No fine
Criminal neglect of patient, resulting in substantial bodily harm (200.495)	1 to 6 years	Not more than \$5,000
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering resulting in substantial bodily or mental harm (200.508)	2 to 20 years	No fine
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering, no substantial bodily or mental harm (200.508)	1 to 6 years	No fine
Child abuse/neglect: Causing a child to suffer unjustifiable physical pain or mental suffering, no substantial bodily or mental harm, subsequent violation (200.508)	2 to 15 years	No fine
Child abuse/neglect: Permitting or allowing child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, resulting in substantial bodily or mental harm (200.508)	2 to 20 years	No fine
Mutilation of genitalia of female child (200.5083)	2 to 10 years	Not more than \$10,000
Abuse of older person or vulnerable person, subsequent offense (200.5099)	2 to 6 years*	No fine
Abuse of older person or vulnerable person; substantial bodily or mental harm or death (200.5099)	2 to 20 years*	No fine
Neglecting or permitting older person or vulnerable person to suffer by person with legal responsibility; resulting in substantial bodily or mental harm or death (200.5099)	2 to 6 years*	No fine
Exploitation of older person or vulnerable person, value \$650 - \$5,000 (200.5099)	2 to 10 years*	Not more than \$10,000
Exploitation of older person or vulnerable person, value more than \$5,000 (200.5099)	2 to 20 years*	Not more than \$25,000
Isolation of older person or vulnerable person, subsequent offense (200.5099)	2 to 10 years*	Not more than \$5,000
Aggravated stalking (200.575)	2 to 15 years	Not more than \$5,000
Entering property with intent to conceal self and peer through opening of dwelling; possession of deadly weapon (200.603)	1 to 6 years	Not more than \$5,000
Distribution of child pornography (200.725)	1 to 15 years	Not more than \$15,000
Intentionally viewing pornography depicting child less than 16 years of age controlled through the Internet, subsequent offense (200.727)	1 to 6 years	Not more than \$5,000
Performance of a health care procedure without a license, resulting in substantial bodily harm, second or subsequent offense (200.830)	2 to 20 years	\$2,000 to \$5,000
Performance of a health care procedure without a license, resulting in death (200.830)	2 to 20 years; no probation or suspended sentence	\$2,000 to \$5,000
Performance of a surgical procedure without a license, resulting in no substantial bodily harm, second or subsequent offense (200.840)	2 to 20 years	\$2,000 to \$5,000

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PENALTIES FOR FELONIES UNDER NEVADA REVISED STATUTES

(By Category)
 Revised: July 2014

CATEGORY B FELONIES		
A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years. Fines are optional unless otherwise noted. Mandatory restitution is included for those sentences noted by an asterisk (*). (NRS 193.130)		
CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Performance of a surgical procedure without a license, resulting in substantial bodily harm (200.840)	2 to 20 years	\$2,000 to \$5,000
Performance of a surgical procedure without a license, resulting in death (200.840)	2 to 20 years; no probation or suspended sentence	\$2,000 to \$5,000
Possession of child pornography, first offense (201.730)	1 to 6 years	Not more than \$5,000
Abortion not pursuant to law (201.120)	1 to 10 years	Not more than \$10,000
Knowingly engaging in conduct likely to spread HIV (201.205)	2 to 10 years	Not more than \$10,000
Pandering of a child, force or threat of force (201.300)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Pandering of a child, no force or threat of force (201.300)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Detention of child in brothel because of debt, force or threat of force (201.330)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Detention of child in brothel because of debt, no force or threat of force (201.330)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Transporting a prostitute - child; force or threat of force (201.340)	2 to 20 years	Not more than \$20,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Transporting a prostitute - child; no force or threat of force (201.340)	1 to 10 years	Not more than \$10,000; plus not more than \$100,000 (child 14 or more) OR not more than \$500,000 (child under 14); plus not more than \$500,000 if conspiracy in addition to offense
Prostitute knowingly engaging in conduct likely to spread HIV (201.358)	2 to 10 years	Not more than \$10,000
Unlawful sexual conduct between present or former school employee or volunteer and pupil who is 14 or 15 years old at time of conduct (201.540)	1 to 6 years	Not more than \$5,000
Using a computer, system or network to lure a child, person believed to be a child, or mentally ill person to engage in sexual conduct (201.560)	1 to 10 years	Not more than \$10,000
Luring a child, person believed to be a child, or mentally ill person to engage in sexual conduct (201.560)	2 to 15 years	Not more than \$10,000
Luring a child, person believed to be a child, or mentally ill person to provide material harmful to minors (201.560)	1 to 6 years	Not more than \$10,000
Willfully poisoning food, water, or medicine (202.170)	2 to 15 years	Not more than \$10,000
Setting spring gun and causing injury (202.255)	1 to 6 years	Not more than \$5,000
Setting spring gun and causing death (202.255)	1 to 10 years; may be prosecuted as murder depending on circumstances	Not more than \$10,000
Possession, manufacture, or disposition of bomb (202.260)	1 to 6 years	Not more than \$5,000
Possession of components of explosive or incendiary device (202.261)	1 to 6 years	Not more than \$5,000
Discharging firearm into occupied structure (202.285)	1 to 6 years	Not more than \$5,000
Drive-by shooting (202.287)	2 to 15 years	Not more than \$5,000
Permitting minor to unlawfully handle firearm; subsequent offense (202.300)	1 to 6 years	Not more than \$5,000
Unlawful sale of firearm to minor (202.310)	1 to 6 years	Not more than \$5,000
Unlawful use of stun gun (202.357)	1 to 6 years	Not more than \$5,000
Possession of stun gun by person convicted of a felony or a fugitive from justice (202.357)	1 to 6 years	Not more than \$5,000
Possession of firearm by ex-felon, fugitive from justice, or user of controlled substance (202.360)	1 to 6 years	Not more than \$5,000
Unlawful sale of firearm to felon, fugitive from justice, person adjudicated mentally ill, or person unlawfully in the United States (202.362)	1 to 10 years	Not more than \$10,000
Ex-felon, possession of tear gas (202.380)	1 to 6 years	Not more than \$5,000
Knowingly assisting in crimes involving weapons of mass destruction, biological or chemical agents, or similar lethal agents (202.446)	2 to 15 years*	Not more than \$10,000
Unlawful threats involving act of terrorism, biological or chemical agents, or similar lethal agents (202.448)	2 to 20 years	Not more than \$5,000
Delivering a "hoax substance" causing substantial bodily harm or death (202.449)	2 to 20 years*	Not more than \$5,000
Transportation or receipt of explosives for unlawful purpose, no substantial bodily harm (202.780)	2 to 10 years	\$2,000 to \$10,000
Transportation or receipt of explosives for unlawful purpose, with substantial bodily harm (202.780)	2 to 20 years	\$2,000 to \$20,000
Use or possession of explosives during commission of a felony, first offense (202.820)	1 to 10 years	Not more than \$10,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Use or possession of explosives during commission of felony, subsequent offense (202.820)	2 to 20 years	No fine
Use of explosives to destroy property, no substantial bodily harm (202.830)	2 to 10 years	\$2,000 to \$10,000
Use of explosives to destroy property, with substantial bodily harm (202.830)	2 to 20 years	\$2,000 to \$20,000
Bomb threats (202.840)	1 to 6 years	Not more than \$5,000
Criminal anarchy (203.115)	1 to 6 years	Not more than \$10,000
Criminal syndicalism (203.117)	1 to 6 years	Not more than \$5,000
Arson, first degree (205.010)	2 to 15 years	Not more than \$15,000
Arson, second degree (205.015)	1 to 10 years	Not more than \$10,000
Arson, aiding and abetting, with the intent to defraud (205.030)	1 to 6 years*	Not more than \$5,000
Burglary (205.060)	1 to 10 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Burglary with a weapon (205.060)	2 to 15 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Invasion of the home (205.067)	1 to 10 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Invasion of the home with a deadly weapon (205.067)	2 to 15 years; no probation or suspended sentence if previously convicted of burglary or invasion of the home	Not more than \$10,000
Burglary using explosives (205.075)	2 to 15 years	No fine
Participation in organized retail theft, aggregated value of loss within 90-day period of \$3,500 to \$10,000 (205.08345)	1 to 10 years*	Not more than \$10,000, mandatory
Participation in organized retail theft, aggregated value of loss within 90-day period of \$10,000 or more (205.08345)	2 to 15 years*	Not more than \$20,000, mandatory
Theft; value of \$3,500 or more (205.0835)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny, value of \$3,500 or more (205.220 and 205.222)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny of firearm (205.226)	1 to 10 years*	Mandatory fine, not more than \$10,000
Grand larceny of motor vehicle, value proven to be \$3,500 or more (205.228)	1 to 10 years*	Mandatory fine, not more than \$10,000
Theft of scrap metal, aggregated value of loss within 90-day period of \$3,500 or more (205.267)	1 to 10 years*	Mandatory fine, not more than \$10,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Taking not amounting to robbery, value \$3,500 or more (205.270)	1 to 10 years*; no probation or suspended sentence if victim was elderly or handicapped	Mandatory fine, not more than \$10,000
Theft from vending machine, value of \$3,500 or more (205.2707)	1 to 10 years*	Mandatory fine, not more than \$10,000
Receiving or transporting stolen vehicle, value proven to be \$3,500 or more (205.273)	1 to 10 years*	Mandatory fine, not more than \$10,000
Receiving or possessing stolen goods, value \$3,500 or more (205.275)	1 to 10 years*	Mandatory fine, not more than \$10,000
Extortion (205.320)	1 to 10 years*	Not more than \$10,000
Extortion for a debt (205.322)	1 to 6 years*	Not more than \$10,000
Pattern of mortgage lending fraud (205.372)	3 to 20 years	Not more than \$50,000; subject to additional civil penalty not to exceed \$5,000 each violation.
Defrauding another, two or more similar transactions within 4-year period, aggregated value of loss more than \$650 (205.377)	1 to 20 years*	Not more than \$10,000
Obtaining money, property, rent, or labor by false pretenses, value \$650 or more (205.380)	1 to 6 years*	Not more than \$10,000
Pattern of false representation of title (205.395)	3 to 20 years	Not more than \$50,000; subject to additional civil penalty not to exceed \$5,000 each violation
Obtaining and using another's personal identifying information to harm, impersonate, or access nonpublic records of another or for unlawful purpose (205.463)	1 to 20 years*	Not more than \$100,000
Obtaining and using an older or vulnerable person's personal identifying information to harm or for unlawful purpose (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using the personal identifying information of five or more persons to harm or for unlawful purpose (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using another's personal identifying information to harm or for unlawful purpose that causes loss of \$3,000 or more (205.463)	3 to 20 years*	Not more than \$100,000
Obtaining and using an older or vulnerable person's personal identifying information to avoid prosecution for a category A or B felony (205.463)	3 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using another's personal identifying information to harm other person or for unlawful purpose (205.464)	5 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using an older or vulnerable person's personal identifying information to harm other person or for unlawful purpose (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using the personal identifying information of five or more persons to harm or for unlawful purpose (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee unlawfully obtaining and using another's personal identifying information to harm or for unlawful purpose that causes loss of \$3,000 or more (205.464)	7 to 20 years*	Not more than \$100,000
Public officer or employee obtaining and possessing, selling or transferring an older or vulnerable person's personal identifying information to establish false identity (205.464)	1 to 20 years*	Not more than \$100,000
Public officer or employee obtaining and possessing, selling or transferring the personal identifying information of five or more persons to establish false identity (205.464)	7 to 20 years*	Not more than \$100,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Public officer or employee obtaining and possessing, selling or transferring another's personal identifying information to establish false identity that causes loss of \$3,000 or more (205.464)	7 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving an older or vulnerable person's personal identifying information (205.464)	1 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving the personal identifying information of five or more persons (205.464)	1 to 20 years*	Not more than \$100,000
Aiding public officer or employee to commit crimes involving another's personal identifying information that causes loss of \$3,000 or more (205.464)	1 to 20 years*	Not more than \$100,000
False identification crimes involving personal identifying information of an older or vulnerable person (205.465)	1 to 20 years	Not more than \$100,000
False identification crimes involving the personal identifying information of five or more persons (205.465)	1 to 20 years	Not more than \$100,000
False identification crimes involving another's personal identifying information that causes loss of \$3,000 or more (205.465)	1 to 20 years	Not more than \$100,000
Establishing or possessing financial forgery laboratory (205.46513)	1 to 20 years	Not more than \$100,000
Unlawful use of scanning device or reencoder with intent to defraud (205.605)	1 to 20 years*	Not more than \$100,000
False signals endangering cars, physical injury or property damage results (206.300)	1 to 10 years	Not more than \$10,000
Habitual criminal, current conviction for felony plus two prior felonies (207.010)	5 to 20 years; no probation or suspended sentence	No fine
Habitually fraudulent felon, current conviction for felony involving fraud plus two prior felonies that include elements of fraud. Victim of each offense was an older person, a vulnerable person, or a mentally disabled person. (207.014)	5 to 20 years; no probation or suspended sentence; prosecutor must charge	No fine
Coercion, force or threat of force (207.190)	1 to 6 years	Not more than \$5,000
Unlawful contact with child under 16 years of age or with mentally ill person, subsequent offense (207.260)	1 to 6 years	Not more than \$5,000
Racketeering (207.400)	5 to 20 years	Not more than \$25,000
Escape of felony prisoner, use of weapon or substantial bodily harm (212.090)	2 to 20 years	Not more than \$20,000
Escape of felony prisoner, no aggravating factors (212.090)	1 to 10 years	Not more than \$10,000
Escape from prison, gross misdemeanor or misdemeanor prisoner, use of weapon (212.090)	1 to 6 years	Not more than \$5,000
Possession by felony prisoner of escape tools (212.093)	1 to 6 years	Not more than \$5,000
Unauthorized absences from prison (212.095)	Penalty under NRS 212.090	
Aiding escape of felony prisoner (212.100)	1 to 10 years	Not more than \$10,000
Aid in escape of gross misdemeanor or misdemeanor prisoner, use of weapon (212.100)	1 to 6 years	Not more than \$5,000
Custodian allowing escape of felon (212.110)	1 to 6 years	Not more than \$10,000
Ministerial officer allowing escape (212.120)	1 to 6 years	Not more than \$10,000
Furnishing weapons or drugs to prisoner (212.160)	1 to 6 years	Not more than \$5,000
Possession of weapon or facsimile by prisoner (212.185)	1 to 6 years	No fine
Gassing by prisoner in lawful confinement (212.189)	2 to 10 years; consecutive after current sentence, no probation or suspended sentence	Not more than \$10,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Major violation of lifetime supervision (213.1243)	1 to 6 years	Not more than \$5,000
Elections: Tampering or interfering with a mechanical voting system, device, or program used to count ballots (293.755)	2 to 20 years	No fine
Abuse or neglect of patient by mental health provider, <i>either</i> for first violation that results in substantial bodily harm <i>or</i> for subsequent violation (435.645)	1 to 6 years	Not more than \$5,000
Abuse of child receiving mental health treatment; substantial bodily harm (433B.340)	1 to 6 years	Not more than \$5,000
Willful use of aversive intervention on person with a disability or improper use of restraint, <i>either</i> first violation with substantial bodily harm <i>or</i> subsequent violation (449.783)	1 to 6 years	Not more than \$5,000
Maintaining drug house, first offense (453.316)	1 to 6 years	Not more than \$10,000
Maintaining drug house, subsequent offense (453.316)	2 to 10 years; no probation or suspended sentence	Not more than \$20,000
Import, sell, et cetera, Schedule I or II drugs, first offense (453.321)	1 to 6 years	Not more than \$20,000
Import, sell, et cetera, Schedule I or II drugs, second offense (453.321)	2 to 10 years; no probation or suspended sentence	Not more than \$20,000
Import, sell, et cetera, Schedule I or II drugs, third or subsequent offense (453.321)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Import, sell, et cetera, Schedule III, IV, or V drugs, second offense (453.321)	2 to 10 years; no probation or suspended sentence	Not more than \$15,000
Import, sell, et cetera, Schedule III, IV, or V drugs, third or subsequent offense (453.321)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Unlawful acts relating to manufacture or compounding of certain controlled substances (453.322)	3 to 15 years; no probation	Not more than \$100,000
Allowing child to be present where controlled substances are being used, substantial bodily harm results (453.3325)	6 to 20 years; no probation or suspended sentence	Not more than \$20,000
Allowing child to be present where controlled substances are unlawfully sold, exchanged, given away or administered, no substantial bodily harm or death (453.3325)	3 to 15 years; no probation or suspended sentence	Not more than \$10,000
Allowing child to be present where controlled substances are unlawfully sold, exchanged, given away or administered, substantial bodily harm results (453.3325)	6 to 20 years; no probation or suspended sentence	Not more than \$20,000
Allowing child to be present where controlled substances are unlawfully manufactured, no substantial bodily harm or death (453.3325)	5 to 20 years; no probation or suspended sentence	Not more than \$15,000
Possession not for sale of flunitrazepam or GHB (453.336)	1 to 6 years	No fine
Possession for purpose of sale, Schedule I or II drugs, flunitrazepam, or GHB; third or subsequent offense (453.337)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Trafficking, Schedule I drugs (except marijuana), flunitrazepam, or GHB: 4 to 14 grams (453.3385)	1 to 6 years; no probation or suspended sentence	Mandatory fine, not more than \$50,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
Trafficking, Schedule I drugs (except marijuana), flunitrazepam, or GHB: 14 to 28 grams (453.3385)	2 to 15 years; no probation or suspended sentence	Mandatory fine, not more than \$100,000
Trafficking marijuana, 2,000 to 10,000 pounds (453.339)	2 to 10 years; no probation or suspended sentence	Mandatory fine, not more than \$50,000
Trafficking, Schedule II drugs, 200 to 400 grams (453.3395)	2 to 10 years; no probation or suspended sentence	Mandatory fine, not more than \$100,000
Filling or delivering of prescriptions by illegal Internet pharmacy: Schedule I drug involved or drug causes substantial bodily harm or death (453.3638)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000
Unlawful acts relating to filling prescriptions via the Internet: Schedule I drug involved or drug causes substantial bodily harm or death (453.3639)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000
Unlawful acts relating to prescribing of drugs with knowledge of involvement of illegal Internet pharmacy; Schedule I drug involved or drug causes substantial bodily harm or death (453.3643)	3 to 15 years; no probation or suspended sentence	Not more than \$100,000
Conspiracy to violate the Uniform Controlled Substances Act, second offense (453.401)	2 to 10 years; no probation or suspended sentence	Not more than \$10,000
Conspiracy to violate the Uniform Controlled Substances Act, third or subsequent offense (453.401)	3 to 15 years; no probation or suspended sentence	Not more than \$20,000
Using minor as an agent or furnishing drugs to minor (454.306)	5 to 20 years	Not more than \$20,000
Gaming without a license (463.360)	1 to 10 years	Not more than \$50,000
Gaming crimes, first offense (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years	Not more than \$10,000
Gaming crimes, second or subsequent violation (includes attempts and conspiracy to commit crimes) (465.088)	1 to 6 years; no probation or suspended sentence	Not more than \$10,000
Unlawful dissemination of certain wire information (465.090)	1 to 6 years	Not more than \$5,000
Theft of fire prevention device, value of \$650 or more (475.105 - Punished as grand larceny. See 205.222.)	1 to 10 years*	Mandatory fine, not more than \$10,000
Unlawful purchase, sale, disposal, or transfer of a motor vehicle or part knowing the identification number has been falsely attached, removed, destroyed, or altered (482.551)	1 to 10 years	Not more than \$60,000
Failure to stop at accident involving death or personal injury (484.219)	2 to 15 years	Mandatory fine, \$2,000 to \$5,000
Failure to obey signal by officer and: (1) causes property damage; or (2) operates a vehicle in dangerous manner (484.348)	1 to 6 years	Not more than \$5,000
Failure to obey signal by officer, resulting in death or bodily harm (484.348)	2 to 20 years	Not more than \$50,000
Failure to obey roadblock, resulting in death, substantial bodily harm, or property damage over \$1,000 (484.3595)	1 to 6 years	Not more than \$5,000
Reckless driving, willful conduct resulting in death or substantial bodily harm (484.377)	1 to 6 years	Mandatory fine, \$2,000 to \$5,000

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CRIME AND NRS CITATION	PENALTY	
	Prison Term	Fine
DUI, third offense in 7 years (484.3792)	1 to 6 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000
DUI and previous conviction of felony DUI; DUI causing substantial bodily harm or death or homicide resulting from driving under the influence (484.3792)	2 to 15 years; no probation or suspended sentence except in certain circumstances	Mandatory fine, \$2,000 to \$5,000
DUI causing substantial bodily harm or death (484.3795)	2 to 20 years; no probation or suspended sentence	Mandatory fine, \$2,000 to \$5,000
Knowingly selling a motor vehicle whose odometer has been fraudulently altered (484.6067)	1 to 6 years	Not more than \$10,000
Watercraft DUI causing substantial bodily harm or death (488.420)	2 to 20 years; no probation or suspended sentence	Mandatory fine, \$2,000 to \$5,000
Watercraft DUI, and previous conviction of watercraft DUI causing substantial bodily harm or death (488.427)	2 to 15 years	Mandatory fine, \$2,000 to \$5,000
Staging fights between dogs, third offense (574.070)	1 to 6 years	Not more than \$5,000 (A fine of not more than \$10,000 is mandatory if the violation is by an entity other than a natural person.)
Representing or aiding unauthorized insurer in violation of Unauthorized Insurers Act (685B.083)	<u>No penalty specified</u>	<u>No penalty specified</u>
Transacting unauthorized insurance business (685B.087)	<u>No penalty specified</u>	<u>No penalty specified</u>

Assembly Bill No. 136—Committee on Judiciary

CHAPTER.....

AN ACT relating to criminal laws; revising provisions governing credits for offenders sentenced for certain crimes; revising provisions governing the sealing and removal of certain records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances. (NRS 209.4465) **Section 1** of this bill adds to the exceptions that an offender who has been convicted of being a habitual criminal or a habitual felon may not have credits applied to both the minimum and maximum term imposed by the sentence. **Section 1** further provides that an offender convicted of a category B felony also qualifies to have certain credits deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances.

Existing law authorizes a person arrested for alleged criminal conduct to petition for the sealing of all records relating to the arrest if the charges were dismissed or the person was acquitted of the charges. (NRS 179.255) **Section 1.3** of this bill authorizes such a person to petition for the sealing of all records relating to an arrest if the prosecuting attorney declines to prosecute the charges.

Existing law also provides that a person arrested, or issued a citation or a warrant, for alleged criminal conduct may apply to the Central Repository for Nevada Records of Criminal History to remove the record of criminal history if the charge was dismissed, acquittal was entered or the disposition of the charge was favorable to the accused. (NRS 179A.160) **Section 1.7** of this bill authorizes such a person to apply to have the record of criminal history removed if the prosecuting attorney declined to prosecute the charges.

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

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

Section 1. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:



(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↳ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:



- (a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;
- (b) A sexual offense that is punishable as a felony;
- (c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~or~~
- (d) *Being a habitual criminal pursuant to NRS 207.010, a habitual felon pursuant to NRS 207.012 or a habitually fraudulent felon pursuant to NRS 207.014; or*
- (e) ~~A~~ Except as otherwise provided in subsection 9, a category A or B felony,
➤ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

9. *Credits earned by an offender who has been convicted of a category B felony apply to eligibility for parole, must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence if the offender:*

- (a) *Has not been convicted of an offense listed in paragraphs (a) to (d), inclusive, of subsection 8;*
- (b) *Has not served three or more separate terms of imprisonment for three separate felony convictions in this State;*
- (c) *Has not served five or more separate terms of imprisonment for five separate felony convictions, regardless of the jurisdiction in which the offender was convicted;*
- (d) *Is not serving a sentence for which an additional penalty was imposed for the use of a firearm pursuant to NRS 193.165; and*
- (e) *Is not serving a sentence for violating the provisions of NRS 202.360.*

Sec. 1.3. NRS 179.255 is hereby amended to read as follows:

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed, *the prosecuting attorney having jurisdiction declined prosecution of the charges* or such person is acquitted of the charges, the person may petition:

- (a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; ~~or~~
- (b) *The court having jurisdiction in which the charges were declined for prosecution, at any time after 180 days after the date of the declination; or*
- (c) The court in which the acquittal was entered, at any time after the date of the acquittal,



↪ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal , *declination* or acquittal.

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 or 2 must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal , *declination* or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed , *declined for prosecution* or the acquittal was entered in a district court or justice court, the prosecuting attorney for the county; or

(b) If the charges were dismissed , *declined for prosecution* or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

5. Upon receiving a petition pursuant to subsection 2, the court shall notify:

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.



6. If, after the hearing on a petition submitted pursuant to subsection 1, the court finds that there has been an acquittal, *that the prosecution was declined* or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal, *declination* or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

8. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

Sec. 1.5. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section, *subsection 8 of NRS 179.255* and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining



information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 1.7. NRS 179A.160 is hereby amended to read as follows:

179A.160 1. If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the person is acquitted of the charge or the disposition of the charge is favorable to the person, at any time after the charge is dismissed, acquittal is entered or disposition of the charge in favor of the person is final, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

2. *If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the prosecuting attorney having jurisdiction declined prosecution, at any time after 180 days after the declination, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.*

3. The Central Repository and the agency shall remove the record unless:

- (a) The defendant is a fugitive;
- (b) The case is under active prosecution according to a current certificate of a prosecuting attorney;
- (c) The disposition of the case was a deferred prosecution, plea bargain or other similar disposition;
- (d) The person who is the subject of the record has a prior conviction for a felony or gross misdemeanor in any jurisdiction in the United States; or
- (e) The person who is the subject of the record has been arrested for or charged with another crime, other than a minor traffic



violation, since the arrest, citation or warrant which the person seeks to have removed from the record.

~~B-1~~ 4. This section does not restrict the authority of a court to order the deletion or modification of a record in a particular cause or concerning a particular person or event.

Sec. 2. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 1 of this act must be applied:

1. Retroactively to January 1, 2005, to reduce the minimum term of imprisonment of an offender described in subsections 8 and 9 of NRS 209.4465, as amended by section 1 of this act, who was placed in the custody of the Department of Corrections before January 1, 2012, and who remains in such custody on January 1, 2012.

2. Retroactively to January 1, 2011, to reduce the maximum term of imprisonment of an offender who was placed on parole before January 1, 2012.

3. In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on January 1, 2012, and for all offenders who are on parole commencing on January 1, 2012.

Sec. 3. This act becomes effective on January 1, 2012.



The purpose of this interim report is to provide supporting documentation and evidence for the recommendations presented to the Advisory Commission on the Administration of Justice (ACAJ) on October 21, 2014.

On behalf of Nevada Governor Brian Sandoval, Nevada Department of Corrections (NDOC) Director Greg Cox requested the U.S. Department of Justice, Office of Justice Programs Diagnostic Center evaluate the definition and population of Category B felony offenders to bring about more consistency and fairer sentencing. Initial research of Category B felony offenses revealed historical legislative acts impacted the application of good time credit for Category B felony offenses and resulted in shifts in the prison population. In evaluating this, the Diagnostic Center agreed to assist the State of Nevada in the implementation of data-driven strategies to:

1. Evaluate sentencing models and apply evidence-based solutions; and
2. Determine what Category B offenses, if any, can be classified to other categories (increase or decrease in severity) for more consistency and fairer sentencing.

During the interim, Diagnostic Center Senior Advisor Steve Rickman and Diagnostic Specialist Jessica Herbert interviewed stakeholders and reviewed Nevada state legislation, national legislative trends and Category B offender data from NDOC and Clark County Sheriff's Office.

In August 2014, this preliminary data analysis was presented to a focus group of ACAJ members. In addition to general NDOC population trends and demographics, six (6) scenarios were presented to the focus group. Based on preponderance of views expressed during the focus group, the following recommendations were made:

Recommendation I: Draft legislation to extend A.B. 510 credits to all Category B felons, excluding those convicted of crimes with physical harm. In addition, allow judges to use discretion to exclude eligibility of good time credits for all other Category B felony offenses based on aggravating factors such as: threatened physical harm, significant financial harm and extensive criminal history.

Recommendation II: Draft legislation to increase drug thresholds for Category B trafficking offenses to mirror national drug legislation trends.

Recommendation III: Draft legislation to statutorily differentiate between residential and commercial burglaries. This recommendation seeks to differentiate between a burglary and a theft—where no forced entry is committed—in a commercial location.

The Strain of Correctional Budgets

Between 1980 and 1995, the United States' total prison population increased 242 percent, reaching an estimated 1.1 million offenders.¹ Research shows this was a steady increase and has reached unsustainable levels.² Truth-in-sentencing and mandatory minimum sentencing practices are contributors to these trends.

In addition, there are other factors that increased budgets for criminal justice agencies.

- Operational costs of correctional facilities rose to support the increase in population. In 2001, the national average cost per inmate was \$22,650 per year, or \$62.05 per day.³ By 2010, the average cost per inmate ranged from \$31,286 to \$60,076 annually.⁴ Although Nevada's annual rates remain lower than other states, the overall increase strains the correctional budget.⁵
- One effect of longer sentencing is the rising age of incarcerated persons. In July 2014, the PEW Charitable Trusts reported the number of persons over the age of 55 in state and federal prisons increased 204 percent between 1999 and 2012.⁶
- From 2005 to 2011, the number of female offenders increased by 16 percent nationwide – 36% in Nevada alone. This increases medical costs due to special needs and circumstances.⁷

Alternative Sentencing and Reduction of Costs

The unintended consequences to truth-in-sentencing and mandatory minimum sentencing models resulted in state and federal reforms, such as the Second Chance Act of 2008, the Fair Sentencing Act of 2010 and the Sentencing Reform Act. These laws created alternative sentencing options, increased program funding for rehabilitative services and promoted partnerships across all criminal justice stakeholders (judicial, legislative, law enforcement, probation and parole).⁸

¹ Federation of American Scientists. 1996. "GAO -Federal And State Prisons: Inmate Populations, Costs, And Projection Models (Letter Report, 11/25/96, GAO/GGD-97-15)." Accessed June 26 2014. <http://fas.org/irp/gao/ggd97015.htm>.

² Federation of American Scientists. 1996. "GAO -Federal And State Prisons: Inmate Populations, Costs, And Projection Models (Letter Report, 11/25/96, GAO/GGD-97-15)." Accessed June 26 2014. <http://fas.org/irp/gao/ggd97015.htm>.

³ Stephan, James J. 2004. "State Prison Expenditures, 2001." Bureau of Justice Statistics. Accessed on July 17, 2014. <http://www.bjs.gov/content/pub/pdf/spe01.pdf>.

⁴ Henrichson, Christian and Ruth Delaney. 2012. "The Price of Prisons: What Incarceration Costs Taxpayers." Vera Institute of Justice, Center on Sentencing and Corrections. Accessed on July 17, 2014. http://www.vera.org/sites/default/files/resources/downloads/Price_of_Prisons_updated_version_072512.pdf.

⁵ Henrichson, Christian and Ruth Delaney. 2012. "The Price of Prisons: What Incarceration Costs Taxpayers." Vera Institute of Justice, Center on Sentencing and Corrections. Accessed on July 17, 2014.

http://www.vera.org/sites/default/files/resources/downloads/Price_of_Prisons_updated_version_072512.pdf.

⁶ PEW Charitable Trusts. 2014. "Managing Prison Health Care Spending." Accessed July 17, 2014. <http://www.pewtrusts.org/en/research-and-analysis/reports/2014/05/15/managing-prison-health-care-spending>.

⁷ PEW Charitable Trusts. 2014. "Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011." Accessed July 17, 2014. <http://www.pewtrusts.org/en/research-and-analysis/reports/2007/02/14/public-safety-public-spending-forecasting-americas-prison-population-20072011>.

⁸ United States Courts. Task Force Urged to Curb Over-Federalization of Criminal Law. 2014. Accessed July 17, 2014.

<http://news.uscourts.gov/task-force-urged-curb-over-federalization-criminal-law>. See also, The Sentencing Project, "Policy Brief: Fewer Prisoners, Less Crime." Accessed October 7, 2014. http://sentencingproject.org/doc/publications/inc_Fewer_Prisoners_Less_Crime.pdf.

Individual state research, such as in Illinois, evaluated the impact of truth-in-sentencing. Much of this research confirms the rise of prison populations even if the numbers of admitted offenders does not increase.⁹ The state of Wisconsin began sentencing reforms in the early 2000s to address requests for certainty and uniformity of incarceration lengths.¹⁰ More recent reforms in other states as part of the Justice Reinvestment Initiative (JRI) Act include mandatory reentry programs, reallocation of funding to programs and treatment options and intermediate sanctions.

The states outlined below have diverted from truth in sentencing and/or mandatory minimums and as a result have seen significant changes to their criminal justice system:

- Kentucky implemented mandatory reentry supervision programs, resulting in a 30 percent reduction in new offense rates, saving of 872 prison beds per year and providing an overall savings of \$29 million in the first year of the program.¹¹
- Georgia and Texas adopted reforms to better fund probation and parole departments, and drug and community treatment facilities, resulting in over \$2 billion in savings.¹²
- Texas' Right on Crime reform campaign offers alternatives to incarceration for juveniles and adults. The state legislature changed mandatory sentencing crimes and increased funding for probation and parole to employ evidence-based supervision practices.¹³
- Oregon focused on low-level property and drug possession offenses, adjusting those sentencing structures and focusing on results-oriented policy statements and rehabilitative options so when an offender does get out of prison, they are productive in society.¹⁴

⁹ Olson, David E. 2013. "Drivers of the Sentenced Population: Length of Time Served in Prison." Loyola University Chicago. Accessed July 16, 2014. http://works.bepress.com/cgi/viewcontent.cgi?article=1021&context=david_e_olson.

¹⁰ Wisconsin Briefs. 2002. Legislative Reference Bureau. Brief 02-7. Accessed July 17, 2014.

<http://legis.wisconsin.gov/lrb/pubs/wb/02wb7.pdf>.

¹¹ PEW Charitable Trusts. 2014. "Kentucky Mandatory Reentry Supervision." Accessed June 26 2014. Accessed July 17, 2014.

<http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/06/kentucky-mandatory-reentry-supervision>.

¹² Towns, Zoe. 2014. Justice Reinvestment In Oregon. The PEW Center on the States. Accessed on July 17, 2014.

http://www.oregon.gov/CJC/docs/2012_cps_meeting_1_zoe.pdf

¹³ Right on Crime. State Reform Statistics. Accessed on July 22, 2014. www.rightoncrime.com.

¹⁴ The Urban Institute. 2014. "Justice Reinvestment State Assessment Report." Accessed on July 17, 2014.

<http://www.urban.org/UploadedPDF/412994-Justice-Reinvestment-Initiative-State-Assessment-Report.pdf>. See also

<http://www.urban.org/UploadedPDF/412879-the-justice-reinvestment-initiative.pdf>.

Evidence supporting Recommendation I:

Expanding Application of Good Time Credits

The rising costs of incarceration are no longer sustainable for state budgets. This recommendation allows for nonviolent offenders to be eligible for good time credits, potentially decreasing the length of sentences and saving costs. The recommendation also allows for the use of judicial discretion to further exclude other Category B offenders based on aggravating factors to isolate more serious or repeat offenders.

Approximately 29 state legislatures enacted reforms to release low-level, nonviolent offenders. These approaches include:¹⁵

1. Expanding judicial discretion,
2. Limiting automatic sentence enhancements, and
3. Repealing or revising mandatory minimum sentences.

The goal of this recommendation is to encourage fairer and consistent sentencing practices while expending fewer state resources.

Evidence supporting Recommendation II:

National Trends on Drug Legislation

In the past decade, federal drug policies have been shifting to distinguish between low-level users and major drug traffickers. While the Smarter Sentencing Act of 2014 suggests courts decrease sentence lengths of federal drug offenders, individual states have led the way to decrease jail populations and focus funding toward substance abuse and treatment options.

New York City changed its policies and practices that affected enforcement and sentencing of drug offenses, contributing to a 26 percent decrease in the prison population between 1999 and 2012.¹⁶ New Jersey saw a 26 percent reduction in its prison population during the same time frame through reforms affecting admissions, sentence lengths and increased rates of parole.¹⁷ Both states experienced a greater decrease in crime as compared to national rates.

¹⁵ Vera Institute. February 2014. "Playbook for Change? States Reconsider Mandatory Sentences." Accessed October 10, 2014. <http://www.vera.org/sites/default/files/resources/downloads/mandatory-sentences-policy-report-summary-v3.pdf>.

¹⁶ The Sentencing Project, "Policy Brief: Fewer Prisoners, Less Crime." Accessed October 7, 2014. http://sentencingproject.org/doc/publications/inc_Fewer_Prisoners_Less_Crime.pdf.

¹⁷ The Sentencing Project, "Policy Brief: Fewer Prisoners, Less Crime." Accessed October 7, 2014. http://sentencingproject.org/doc/publications/inc_Fewer_Prisoners_Less_Crime.pdf.

Between 2009 and 2013, 26 states eased drug thresholds and/or duration of drug offense sentences.¹⁸ Each of these states has unique offense categorizations, however some trends include:¹⁹

- Eliminating mandatory minimum sentencing;
- Distinguishing drug users and addicts from career criminals;
- Allowing for probation, suspended sentences, parole, earned time and work release for third or subsequent drug offenses if the weight threshold is below the trafficking level;
- Decreasing the categorization of drug offenses to lower felony categories;
- Decreasing the sentencing ranges for offenders;
- Creating provisions to consider low-level traffickers to be eligible for intervention programs; and
- Using alternative sentencing methods (e.g. house arrest, intense supervision, electronic monitoring) for low-quantity drug felonies.

Initial analysis of these trends does not suggest there is an adverse impact on crime; some states continue to report a decline in crime.²⁰

Evidence supporting Recommendation III:

Burglary versus Larceny/Theft Offenses

At a national level, burglary offenses are defined as a forced entry of a property with the intent to commit a felony offense. Nevada's current definition also allows for the inclusion of theft from commercial property without forced entry. As written, this statute applies to shoplifting offenders, regardless of the value of the stolen property, resulting in lengthy sentences as well as the exclusion of the sentencing credits for low-level offenders. This disparity with national legislation has been voiced by Nevada stakeholders as a large concern in the distribution of justice.

Recommendation III seeks to draft legislation to differentiate between residential and commercial property offense locations by requiring that a forced entry must occur at the commercial offense location in order to qualify as a burglary offense. The theft of items from commercial properties (e.g., grocery stores, retail locations) not involving forced entry would be charged as larceny/theft cases. Thefts from homes, resort/hotel rooms or other properties would continue to be charged under the refined burglary statute.

Steps for the future

The goal of these reforms is to prevent the exhaustion of state correctional resources and potentially expand evidence-based community-programs to increase public safety. Several states continue to enact sentencing reforms, participate in JRI and use alternative sentencing programs to reshape their prison population. These

¹⁸ Desilver, Drew. "Feds may be rethinking the drug war, but states have been leading the way." Pew Research Center. Accessed October 7, 2014. Found at <http://www.pewresearch.org/fact-tank/2014/04/02/feds-may-be-rethinking-the-drug-war-but-states-have-been-leading-the-way/>.

¹⁹ The Pew Center on the States, Justice Reinvestment Initiative state review.

²⁰ Pew Charitable Trusts, *Time Served: The High Cost, Low Return of Longer Prison Terms*, June 2012.

states have experienced decreases in recidivism, operational costs and certain crimes. However, more research and evaluation is needed to ensure trends are not reversed.

For Nevada, the Diagnostic Center suggests reviewing the entire categorization of criminal offenses and corresponding sentencing guidelines. This evaluation, similar to the analysis for Category B offenses, will provide other opportunities to employ evidence-based prison alternatives and avoid increasing corrections costs while maintaining public safety.

We will continue with our analysis on category B offenses including impacts of potential changes and provide a complete report within the next 90 days.

NRS 453.3385 Trafficking in controlled substances: Flunitrazepam, gamma-hydroxybutyrate and schedule I substances, except marijuana. 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, except marijuana, or any mixture which contains any such controlled substance, shall be punished, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity involved:

1. Is 4 grams or more, but less than 14 grams, 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 6 years and by a fine of not more than \$50,000.

2. Is 14 grams or more, but less than 28 grams, 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 \$100,000.

3. Is 28 grams or more, for a category A felony 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,

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

(Added to NRS by 1983, 287; A 1995, 1288; 1997, 905; 1999, 2639)

NEVADA CASES.

Defendant cannot be convicted for first offense of possession of a controlled substance with intent to sell and for trafficking in controlled substance. On appeal from a conviction of possession of a controlled substance with intent to sell and trafficking in a controlled substance (see NRS 453.337 and 453.3385), the court held that defendant cannot be punished for possession with intent to sell when a greater penalty is provided for, inter alia, a trafficking conviction. (See subsection 2 of NRS 453.337.) Appellant cannot be sentenced under NRS 453.337 because a greater penalty is prescribed by NRS 453.3385 than is prescribed for the first offense under NRS 453.337. Furthermore, it is unreasonable to say that the legislature intended that the defendant could be convicted of a crime for which he could not be sentenced. Accordingly a conviction for possession of a controlled substance with intent to sell was reversed and the conviction for trafficking in a controlled substance was affirmed. *Vidal v. State*, 105 Nev. 98, 769 P.2d 1292 (1989), cited, *Hayes v. State*, 106 Nev. 543, at 558, 797 P.2d 962 (1990), *McIntosh v. State*, 113 Nev. 224, at 227, 932 P.2d 1072 (1997)

Defendant may be charged with both a first offense of possession of a controlled substance with intent to sell and for an offense of trafficking but the court must instruct the jury that the defendant may only be found guilty of one of the alternative offenses. On appeal from a conviction of possession of a controlled substance with intent to sell and trafficking in a controlled substance (see NRS 453.337 and 453.3385), the court held that although a defendant cannot be convicted of both a first offense of possession of a controlled substance with intent to sell and trafficking in a controlled substance, it is not improper for the prosecutor to charge both offenses. The court must instruct the jury that the defendant may only be found guilty of one of the alternative offenses. The conviction for possession of a controlled substance with intent to sell was reversed and the conviction for trafficking in a controlled substance was affirmed. *Vidal v. State*, 105 Nev. 98, 769 P.2d 1292 (1989)

Fine imposed pursuant to the section was constitutional. Where appellant was convicted of selling \$300 worth of cocaine to an undercover police officer and sentenced to 3 years in prison and fined \$50,000 in accordance with minimum statutory requirements set forth in NRS 453.3385, the fine did not constitute an excessive fine and was constitutional. *Wischmeier v. State*, 107 Nev. 371, 811 P.2d 1307 (1991)

Evidence was sufficient to show that defendant had constructive possession of illegal drugs and was more than merely present in the area where drugs were discovered. While searching a trailer owned by a third party, police discovered defendant sitting at the kitchen table upon which were plastic bags containing methamphetamine powder. Defendant was charged with two counts of possession of a controlled substance (see NRS 453.336 and 453.3385). Where evidence presented at the preliminary hearing showed that the defendant (1) was involved in the production and distribution of methamphetamine, (2) played a significant part in acquiring materials necessary for the illegal production of drugs, and (3) was able to inform police that the powder on the table was methamphetamine, evidence was sufficient to support a finding of probable cause to believe that the defendant was more than merely present at the trailer and that he had constructive possession of methamphetamine powder, and the order of the district court granting the defendant's pretrial petition for a writ of habeas corpus was reversed. *Sheriff, Washoe County v. Steward*, 109 Nev. 831, 858 P.2d 48 (1993), cited, *Marshall v. State*, 110 Nev. 1328, at 1332, 885 P.2d 603 (1994)

"Procuring agent" defense does not apply if defendant already had possession of drugs at the time the buyer requested their delivery. Because the "procuring agent" defense rests on possession incidental to a transaction initiated by a third party, and therefore possession of drugs

NRS 205.060 Burglary: Definition; penalties; venue; exception.

1. Except as otherwise provided in subsection 5, a person who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary 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 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, 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 may be further punished by a fine of not more than \$10,000.

5. The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:

- (a) Two or more times for committing petit larceny within the immediately preceding 7 years; or
- (b) Of a felony.

[1911 C&P § 369; A 1953, 31]—(NRS A 1967, 494; 1968, 45; 1971, 1161; 1979, 1440; 1981, 551; 1983, 717; 1989, 1207; 1995, 1215; 2005, 416; 2013, 2987)

NEVADA CASES.

Circumstantial proof completely established corpus delicti of burglary under the circumstances. In a prosecution for burglary, proof that the defendant had in his possession, outside a house, between 12 midnight and 1 a.m., goods which were in the house at 9 p.m., and which could have been obtained only by entering the house, was proof of entry in the nighttime, and, taken in connection with other proof, completely established corpus delicti. *State v. Watkins*, 11 Nev. 30 (1876), cited, *State v. Gray*, 23 Nev. 301, at 303, 46 Pac. 801 (1896), *State v. Whitaker*, 39 Nev. 159, at 168, 154 Pac. 927 (1916), *Edwards v. State*, 90 Nev. 255, at 265, 524 P.2d 328 (1974) (dissenting opinion), see also *Graves v. State*, 112 Nev. 118, at 126, 127, 912 P.2d 234 (1996)

Intent may be inferred from the conduct of the parties and other facts and circumstances. In any case where intent is material, the intent need not be proved by positive or direct evidence, but may be inferred from the conduct of the parties and the other facts and circumstances disclosed by the evidence. (See also NRS 193.200 and 205.060.) *State v. Thompson*, 31 Nev. 209, 101 P. 557 (1909), cited, *Mathis v. State*, 82 Nev. 402, at 406, 419 P.2d 775 (1966), *Wilson v. State*, 85 Nev. 88, at 90, 450 P.2d 360 (1969), *Larsen v. State*, 86 Nev. 451, at 453, 470 P.2d 417 (1970), see also *Burkhart v. State*, 107 Nev. 797, at 799, 820 P.2d 757 (1991), *Labastida v. State*, 115 Nev. 298, at 307-08, 986 P.2d 443 (1999), *Grant v. State*, 117 Nev. 427, at 435, 24 P.3d 761 (2001), *Leonard v. State*, 117 Nev. 53, at 75, 17 P.3d 397 (2001), *Moore v. State*, 122 Nev. 27, at 36, 126 P.3d 508 (2006)

Lack of evidence showing ownership of property by an occupant did not constitute a fatal variance between proof and allegations of indictment under statute. Where an indictment for housebreaking alleged that the appellant entered a specific dwelling house in the daytime with the intent to steal property of the occupant, the fact that there was no evidence showing ownership of property by the occupant did not constitute a fatal variance between allegations and proof, because sec. 1, ch. 76, Stats. 1873 (cf. NRS 205.060), providing that every person who, in the daytime, enters any dwelling with the intent to steal is guilty of housebreaking, makes it unnecessary to allege specifically ownership of the property, and therefore such an allegation in indictment is surplusage. *State v. Simpson*, 32 Nev. 138, 104 Pac. 244 (1909)

Offense under statute complete when building entered with requisite intent; actual stealing or attempt to steal property is merely evidence of intent. Under sec. 1, ch. 76, Stats. 1873 (cf. NRS 205.060), providing that every person who, in the daytime, enters any dwelling house with the intent to steal or commit any felony therein, is guilty of housebreaking, the offense is complete when the house or other building is entered with

the specific intent designated in the statute, and actual stealing or attempt to steal property is merely evidentiary of the criminal intent. *State v. Simpson*, 32 Nev. 138, 104 Pac. 244 (1909), cited, *State v. Patchen*, 36 Nev. 510, at 516, 137 Pac. 406 (1913), *Carr v. Sheriff, Clark County*, 95 Nev. 688, at 690, 601 P.2d 422 (1979)

No jurisdiction to try defendant for burglary when defendant entered an open portion of a pickup truck. In a prohibition proceeding to prevent a trial for burglary, where information charged that the defendant entered an open portion of a pickup truck, and NRS 205.060 defined burglary to include entry of a motor vehicle, the definition of "enter," in the former provisions of NRS 193.010 (cf. NRS 193.0145), had to be strictly construed in determining whether or not legislature intended to include an act charged as burglary, and the historical background of the offense as entry into a closed structure prevented applying it to entry of the open portion of a vehicle. Information failed to charge a felony, and the district court had no jurisdiction to try the petitioner. *Smith v. First Judicial Dist. Court*, 75 Nev. 526, 347 P.2d 526 (1959), cited, *In re Laiolo*, 83 Nev. 186, at 188, 426 P.2d 726 (1967), distinguished, *McNeeley v. State*, 81 Nev. 663, at 666, 409 P.2d 135 (1965), *Jimenez v. State*, 105 Nev. 337, at 341, 775 P.2d 694 (1989)

Amendment of information to charge manslaughter in a prosecution for burglary required new arraignment. A defendant was charged with and pleaded guilty to burglary pursuant to NRS 205.060. Subsequently, the prosecutor amended information (see NRS 173.095) to bring a charge of manslaughter pursuant to NRS 200.040. On appeal, the court held that when amended information is filed which materially changes information to which the defendant has entered a plea, he must be arraigned on the amended information to provide him with rights: (1) to have the information read to him, a copy thereof delivered to him and the opportunity to plead guilty or not guilty (see the provisions of former NRS 174.130 (cf. NRS 174.015 and 174.035)); (2) to obtain reasonable time to answer information (see the provisions of former NRS 174.150); and (3) to have time after a plea to prepare for a trial (see the provisions of former NRS 174.530). *Hanley v. Zenoff*, 81 Nev. 9, 398 P.2d 241 (1965), distinguished, *Snyder v. State*, 103 Nev. 275, at 280, 738 P.2d 1303 (1987)

Breaking need not be proved under statute. Under NRS 205.060, which defines burglary, breaking was not a necessary element of the crime or required to be proved. *McNeeley v. State*, 81 Nev. 663, 409 P.2d 135 (1965), cited, *Crane v. State*, 88 Nev. 684, at 686, 504 P.2d 12 (1972), *State v. Adams*, 94 Nev. 503, at 505, 581 P.2d 868 (1978)

Specificity required in a pleading intended felony or theft under statute. Under NRS 205.060, which defines burglary, it was sufficient to allege in an indictment that entering was for the purpose of committing larceny, without specifying grand or petit, because the intent to commit larceny is simply an element of the crime of burglary. Because a primary concern in a burglary indictment is with unlawful entry, the intended felony or theft need not be described with the same specificity that might be required in charging an offense of larceny or other felony. *Bullis v. State*, 83 Nev. 175, 426 P.2d 423 (1967), cited, *Bullis v. Hocker*, 409 F.2d 1380 (1969)

Legislature did not intend for criminal provisions concerning tampering with a vehicle to comprehend a crime of burglary of the vehicle. On appeal from a conviction of a crime of burglary of a vehicle under NRS 205.060, a felony, the defendant's contention that NRS 205.274 (crime of tampering with a vehicle, a misdemeanor) was not only the lesser included offense but covered the same subject matter with a different penalty, was more specific and more recent and therefore superseded the burglary statute with respect to vehicles, was without merit. The burglary statute was more specific and more recently amended than the tampering statute, and it was apparent from the penalty scheme and class of crimes that the legislature did not intend for the tampering provisions to comprehend classic circumstances generally characteristic of burglary. *Jackson v. State*, 93 Nev. 677, 572 P.2d 927 (1977)

Defendant's request for jury instruction on a crime of attempted unlawful taking of a vehicle as a lesser included offense of burglary of a vehicle was properly refused. In a prosecution for burglary of a vehicle under NRS 205.060, the defendant's request for jury instruction on a crime of attempted unlawful taking of a vehicle (see NRS 205.2715) as a lesser included offense was properly refused because burglary of a vehicle could have been committed without committing attempted unlawful taking. The crimes were separate and distinct. *Jackson v. State*, 93 Nev. 677, 572 P.2d 927 (1977), cited, *Block v. State*, 95 Nev. 933, at 937, 604 P.2d 338 (1979)

Charge of burglary sustainable against a person who enters a building open to the public with an intent to commit larceny. Since the former provisions of NRS 205.060 require only entry with an intent to commit larceny or another felony as an essential element of burglary, a charge of burglary was sustainable against the person who allegedly entered the store with the intent to commit larceny. The fact that the building was open to the public did not grant authority to enter with the intent to commit larceny because authority to enter a building open to the public extends only to those who enter with a purpose consistent with the reason the building is open. *State v. Adams*, 94 Nev. 503, 581 P.2d 868 (1978), cited, *Thomas v. State*, 94 Nev. 605, at 610, 584 P.2d 674 (1978)

Burglary and robbery are separate and distinct offenses; conviction for both is not double jeopardy. Burglary (see NRS 205.060) and robbery (see NRS 200.380) are separate and distinct offenses, and NRS 205.070 specifically authorizes prosecution for each crime committed during the commission of burglary, as well as the burglary itself. Thus a defendant could not successfully claim that burglary was necessarily included in robbery or that conviction for both burglary and robbery violated the constitutional prohibition against double jeopardy. *Jones v. State*, 95 Nev. 613, 600 P.2d 247 (1979), cited, *Puglisi v. State*, 102 Nev. 491, at 492, 728 P.2d 435 (1986), *Bennett v. State*, 106 Nev. 135, at 142, 787 P.2d 797 (1990), see also *Rodriguez v. State*, 117 Nev. 800, at 813, 32 P.3d 773 (2001), *Garcia v. State*, 121 Nev. 327, at 343, 113 P.3d 836 (2005)

Defendant's conduct with a knife after entering a house with the intent to commit larceny or a felony could not under the circumstances be used to enhance a crime of burglary. In a prosecution for burglary and the use of a deadly weapon in the commission of that crime (see NRS 193.165 and 205.060), where evidence at a preliminary examination disclosed that the defendant: (1) had been discovered inside the house when the owner returned from lunch; (2) was carrying a knife when discovered; and (3) took several steps toward the owner before she fled and notified police, the appellate court agreed with the defendant's contention that evidence was not sufficient to support the charge of use of a

deadly weapon in the commission of a crime. The crime of burglary was complete upon the defendant's alleged entry of the house with the intent to commit larceny or any felony and was not accomplished with the use of a knife. Although alleged conduct with a knife after he gained entry might subject the defendant to other criminal charges, it could not be used to enhance the crime of burglary pursuant to NRS 193.165, and the district court erred in denying the defendant's pretrial petition for habeas corpus. *Carr v. Sheriff, Clark County*, 95 Nev. 688, 601 P.2d 422 (1979), cited, *Frost v. Sheriff, Clark County*, 95 Nev. 781, at 782, 602 P.2d 193 (1979), *Sheriff, Clark County v. Stevens*, 97 Nev. 316, at 318, 630 P.2d 256 (1981)

When trespass is a lesser included offense of burglary. On appeal from a conviction for burglary (see NRS 205.060) where the defendant argued that it was error to refuse instruction to the jury on a lesser included offense of trespass (see NRS 207.200) but also pointed out that there was no evidence that he entered the building, refusal of instruction was not error. Trespass committed by entering into a building with intent to commit an unlawful act is a lesser included offense of burglary, but trespass by entry onto land with such intent is not. *Block v. State*, 95 Nev. 933, 604 P.2d 338 (1979), distinguished, *Kiper v. State*, 98 Nev. 593, at 595, 655 P.2d 526 (1982)

Overruled, *Smith v. State*, 120 Nev. 944, 102 P.3d 569 (2004)

Burglary and larceny as related offenses. Where a defendant was charged with burglary under NRS 205.060 and grand larceny under NRS 205.220 arising out of the same incident, the district court's ruling that a person who enters a house and steals property once inside may be charged only with burglary was clearly erroneous, and an order granting a pretrial petition for habeas corpus with respect to the charge of grand larceny was reversed on appeal. The offense of burglary is complete when a building is entered with an intent to commit larceny or felony therein, and if any larceny or felony is thereafter committed, the perpetrator has committed two crimes and may be charged with both. *Sheriff, Clark County v. Stevens*, 97 Nev. 316, 630 P.2d 256 (1981), cited, *Point v. State*, 102 Nev. 143, at 146, 717 P.2d 39 (1986), *Barrett v. State*, 105 Nev. 361, at 364, 775 P.2d 1276 (1989), *Stowe v. State*, 109 Nev. 743, at 745, 857 P.2d 15 (1993), see also *Hernandez v. State*, 118 Nev. 513, at 531, 50 P.3d 1100 (2002)

Error under the circumstances to refuse to instruct a jury on trespass as a lesser included offense of burglary. In a prosecution for burglary (entry with intent to commit larceny or any felony, NRS 205.060), it was a reversible error for a trial court to refuse to instruct the jury on a lesser included offense of criminal trespass (entry with the intent to commit an unlawful act, NRS 207.200) where the defense conceded the defendant's presence in the house and review of the record established that the defense theory of trespass was reasonable in light of evidence at the trial. *Kiper v. State*, 98 Nev. 593, 655 P.2d 526 (1982), cited, *Barton v. State*, 117 Nev. 686, at 689, 30 P.3d 1103 (2001)

Overruled, *Smith v. State*, 120 Nev. 944, 102 P.3d 569 (2004)

Failure of a court to instruct a jury that voluntary intoxication may negate a specific intent to kill was not error under the circumstances. Where a defendant was convicted of first degree murder (see NRS 200.030), burglary (see NRS 205.060), robbery (see NRS 200.380) and attempted sexual assault (see NRS 200.366), all with the use of a deadly weapon, the refusal of the district court to give an instruction that voluntary intoxication (see NRS 193.220) negated the specific intent to kill was not error, because the jury could have predicated the defendant's first degree murder liability on a theory of felony murder (see NRS 200.030), based in turn on the general intent felony of robbery. *Nevius v. State*, 101 Nev. 238, 699 P.2d 1053 (1985), cited, *Daniels v. State*, 114 Nev. 261, at 269, 956 P.2d 111 (1998)

Defendant cannot be convicted for both theft and possession of stolen property. In a prosecution for burglary, NRS 205.060, grand larceny, NRS 205.220, and possession of stolen property, the defendant could be convicted of both burglary and grand larceny, but not also of possession of stolen property, because the legislature, in enacting NRS 205.275, which defines a crime of possessing stolen property, did not intend to compound the punishment for burglary or larceny by permitting such convictions for possession of stolen property, but sought to punish those persons who unlawfully take possession of stolen property from an initial offender. The defendant's conviction for possession of stolen property was, therefore, reversed on appeal without affecting convictions for more serious crimes, because the elements of the greater offenses were sufficiently established at the trial. *Point v. State*, 102 Nev. 143, 717 P.2d 39 (1986), cited, *Rice v. State*, 108 Nev. 43, at 45, 824 P.2d 281 (1992), *Stowe v. State*, 109 Nev. 743, at 746, 857 P.2d 15 (1993), see also *Lane v. State*, 114 Nev. 299, at 304, 956 P.2d 88 (1998)

Relation of petit larceny to burglary. In a prosecution for burglary and possession of burglary tools, where the jury was instructed on the definition of larceny as it related to burglary, a trial court properly refused to give instruction on the elements of petit larceny because: (1) defendant was not charged with larceny; and (2) petit larceny was not a lesser included offense of burglary. (See NRS 205.060 and 205.240.) *Puglisi v. State*, 102 Nev. 491, 728 P.2d 435 (1986)

Appellant properly convicted of separate offenses of burglary, robbery and grand larceny auto. On appeal from a conviction of several counts of burglary, robbery and grand larceny auto, an appellant contended that he should have been convicted of burglary, robbery or grand larceny auto, but not all three. The appellant committed burglary when he entered the victim's house with the intent to rob her (see NRS 205.060); the appellant committed robbery when he sprayed mace in the victim's eyes, tied her up and took her jewelry and cash (see NRS 200.380); and the appellant committed grand larceny auto when he drove away in the victim's car (see NRS 205.220). The appellant was properly charged and convicted of separate offenses of burglary, robbery and grand larceny auto. *Barrett v. State*, 105 Nev. 361, 775 P.2d 1276 (1989), cited, *Hernandez v. State*, 118 Nev. 513, at 531, 50 P.3d 1100 (2002)

Person who commits burglary and theft crime, or burglary and crime of possessing or receiving stolen property, may be convicted of both burglary and theft crime or burglary and possessing or receiving stolen property but may not be convicted of both theft crime and possessing or receiving stolen property. A person who commits burglary by entering a vehicle or a building with the intent to commit a crime enumerated in NRS 205.060, who commits a theft crime therein, and who possesses or receives fruits of that theft may be convicted of both burglary and theft crime or may be convicted of both burglary and possessing or receiving stolen property. However, that person may not be convicted of both theft

crime and possessing or receiving stolen property. (See also NRS 205.070 and 205.275.) *Stowe v. State*, 109 Nev. 743, 857 P.2d 15 (1993)

Substantial evidence to support conviction. In a criminal prosecution, substantial evidence existed to allow the jury to find beyond a reasonable doubt that the defendant had committed two counts of burglary (see NRS 205.060) where (1) the defendant dropped coins on the floor next to a patron at a gaming establishment and engaged the patron in conversation, the defendant's partner approaching the patron from the opposite side but retreated when the patron turned around and observed him approaching, and police overheard the defendant telling his partner not to hesitate, and (2) later that evening, police observed the defendant reach into a change booth at a gaming establishment and grab something, the cashier observed the defendant pulling his arms out of the booth and discovered that gaming tokens were missing, police observed the defendant with a handful of coins, and the defendant and his partner subsequently cashed in tokens and quarters. *Graves v. State*, 112 Nev. 118, 912 P.2d 234 (1996), cited, *Tillema v. State*, 112 Nev. 266, at 271, 914 P.2d 605 (1996)

Conviction for burglary based on presence of defendant's fingerprints at the crime scene affirmed. Where a defendant was convicted of burglary (see NRS 205.060) based solely on evidence that his fingerprint was found on a window screen which had been pried open and testimony of the homeowner that she did not know or recognize the defendant and that the defendant had not been to the home for any purpose, evidence was sufficient to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. When fingerprints of a defendant are found where a crime was committed and circumstances rule out the possibility that the prints may have been imprinted at a different time than when the crime occurred, a conviction is warranted. *Geiger v. State*, 112 Nev. 938, 920 P.2d 993 (1996)

Robbery was committed where victim was murdered before property was taken from her residence. The conviction of a defendant for robbery (see NRS 200.380) rather than burglary (see NRS 205.060) was proper, even though the defendant murdered the victim while she was sleeping before removing the victim's property from her apartment, because the jury could find that the victim's knowledge of taking of her property was prevented by the defendant's use of deadly force. *Abeyta v. State*, 113 Nev. 1070, 944 P.2d 849 (1997)

Sufficient evidence was presented to support the defendant's conviction for burglary under the circumstances. On appeal from a judgment of conviction of a defendant for burglary while in the possession of a firearm, the supreme court held that the jury could reasonably conclude that the defendant formed the intent to rob before entering a restaurant which was his former place of employment, and, therefore, sufficient evidence was presented to convict the defendant of burglary where the record on appeal indicated that: (1) the defendant had entered the restaurant with at least one loaded weapon; (2) while entering the restaurant, the defendant asked an employee of the restaurant when he intended to return to the restaurant; (3) the defendant expressed discontent upon seeing a delivery truck near the restaurant, thereby indicating that he did not want extraneous persons in the restaurant; and (4) upon entering the office of his former employer, the defendant thrust a gun into the former employer's face and demanded money. (See NRS 205.060.) *Thomas v. State*, 114 Nev. 1127, 967 P.2d 1111 (1998)

Evidence was sufficient to support the defendant's conviction for burglary and a finding by the jury of burglary as an aggravating circumstance under the circumstances. On appeal from a judgment of conviction for murder with the use of a deadly weapon, burglary, and robbery with the use of a deadly weapon, the supreme court concluded that sufficient evidence had been adduced at trial to convict the defendant of burglary (see NRS 205.060) and to support the finding by the jury of burglary as an aggravating circumstance in the murder (see NRS 200.033) where the testimony and evidence presented at the trial indicated that: (1) the victim of the murder, who was an ex-girlfriend of the defendant, wanted to end her relationship with the defendant; (2) the defendant had threatened and abused the victim in the past; (3) the victim had not communicated with the defendant while he was in jail; (4) the trailer in which the burglary had taken place and in which the victim resided appeared ransacked; and (5) the social security card and car keys belonging to the victim were found in the defendant's possession. *Chappell v. State*, 114 Nev. 1403, 972 P.2d 838 (1998)

Aggravating circumstances of burglary and home invasion are duplicative and invalid. Where the defendant was convicted of both burglary (see NRS 205.060) and home invasion (see NRS 205.067) and he argued that the State should have been precluded from presenting both as aggravators in support for the death penalty for consideration at sentencing (see NRS 200.033), the supreme court concluded that while a strict *Blockburger v. United States*, 492 U.S. 361 (1989), analysis did not necessarily determine whether multiple aggravating circumstances in support of a death sentence were improperly duplicative, the aggravating circumstance of home invasion was duplicative and void because: (1) no separate interests were advanced by permitting both crimes to be considered as separate aggravators in this case; and (2) the actual conduct underlying both aggravators was identical. (See also Nev. Art. 1, § 8.) *Servin v. State*, 117 Nev. 775, 32 P.3d 1277 (2001), cited, *Rodriguez v. State*, 117 Nev. 800, at 815, 32 P.3d 773 (2001), *Hernandez v. State*, 118 Nev. 513, at 530, 50 P.3d 1100 (2002)

Multiple counts of burglary properly charged where defendant unlawfully broke into an office building and several locked offices in the building. Where: (1) the defendant unlawfully entered an office building and broke into several locked offices inside the building; (2) the defendant was charged with multiple counts of burglary (see NRS 205.060), one count for breaking into the office building and one count for each office in which he broke into; and (3) the defendant argued that the counts were multiplicitous because the counts arose out of a single act, the supreme court rejected the defendant's argument and held that the defendant was properly charged with multiple counts of burglary because each count required a separate entry at a separate time and the counts did not arise out of a single wrongful act. *Bedard v. State*, 118 Nev. 410, 48 P.3d 46 (2002)

Multiple counts properly charged for burglary of three offices in a building occupied by the owners of the building. Where: (1) the defendant was charged with multiple counts of burglary (see NRS 205.060) for unlawfully entering an office building and breaking into several locked offices inside the building; and (2) the defendant argued that he could not be charged with burglary of three of those offices because the owners of the building occupied the three offices, the supreme court rejected his argument and held that the charges were proper because the owners of the three offices had a separate expectation of privacy from invasion in each of the three offices. *Bedard v. State*, 118 Nev. 410, 48 P.3d 46

(2002)

Defendant may be charged for burglary of uninhabited structure. Where the defendant was charged with multiple counts of burglary (see NRS 205.060) and argued that the charges were improper because several of the locked offices which he broke into were vacant, the supreme court rejected his argument and held that a defendant can be charged for burglary of an uninhabited structure. *Bedard v. State*, 118 Nev. 410, 48 P.3d 46 (2002)

Forcible entry is not an element of burglary. The supreme court held that forcible entry is not an element of burglary (see NRS 205.060). Further, the court held that, even if the victim had consented to the defendant's entry into her home, the defendant committed a burglary if he entered the victim's home with a felonious intent. *Hernandez v. State*, 118 Nev. 513, 50 P.3d 1100 (2002)

NRS 205.067 Invasion of the home: Definition; penalties; venue.

1. A person who, by day or night, forcibly enters an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a person is present at the time of the entry, is guilty of invasion of the home.

2. A person convicted of invasion of the home 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 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of invasion of the home and who has previously been convicted of burglary or invasion of the home must not be released on probation or granted a suspension of sentence.

3. Whenever an invasion of the home is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car traveled during the time the invasion was committed.

4. A person convicted of invasion of the home who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, 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 may be further punished by a fine of not more than \$10,000.

5. As used in this section:

(a) "Forcibly enters" means the entry of an inhabited dwelling involving any act of physical force resulting in damage to the structure.

(b) "Inhabited dwelling" means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car in which the owner or other lawful occupant resides.

(Added to NRS by 1989, 1452; A 1995, 1215)

NEVADA CASES.

Aggravating circumstances of burglary and home invasion are duplicative and invalid. Where the defendant was convicted of both burglary (see NRS 205.060) and home invasion (see NRS 205.067) and he argued that the state should have been precluded from presenting both as aggravators in support for the death penalty for consideration at sentencing (see NRS 200.033), the supreme court concluded that while a strict *Blockburger v. United States*, 492 U.S. 361 (1989), analysis did not necessarily determine whether multiple aggravating circumstances in support of a death sentence were improperly duplicative, the aggravating circumstance of home invasion was duplicative and void because: (1) no separate interests were advanced by permitting both crimes to be considered as separate aggravators in this case; and (2) the actual conduct underlying both aggravators was identical. (See also Nev. Art. 1, § 8.) *Servin v. State*, 117 Nev. 775, 32 P.3d 1277 (2001), cited, *Rodriguez v. State*, 117 Nev. 800, at 815, 32 P.3d 773 (2001), *Hernandez v. State*, 118 Nev. 513, at 530, 50 P.3d 1100 (2002)

FEDERAL AND OTHER CASES.

Invasion of home not violent crime for purposes of qualifying as armed career criminal under federal statute. The crime of attempted invasion of a home (see NRS 205.067) was not a violent felony for the purpose of sentencing defendant as an armed career criminal pursuant to federal statute because statutory elements of the crime did not include a serious potential risk of physical injury to another person as the crime could be committed regardless of whether a person was present at the time of entry. *United States v. Sparks*, 87 F.3d 276 (9th Cir. 1996)

J

**Enrolled
House Bill 3194**

Sponsored by JOINT COMMITTEE ON PUBLIC SAFETY

CHAPTER

AN ACT

Relating to crime; creating new provisions; amending ORS 40.015, 137.540, 137.717, 144.096, 144.101, 144.106, 166.065, 173.029, 182.515, 182.525, 184.351, 421.168, 423.483, 475.900 and 811.182; repealing ORS 475.933 and sections 22 and 23, chapter 660, Oregon Laws 2009; appropriating money; and declaring an emergency.

Whereas the Seventy-seventh Legislative Assembly finds that a commitment to investing in local public safety infrastructure will ensure that the State of Oregon continues to focus prison resources on violent offenders while protecting the public and holding all offenders accountable; and

Whereas the State of Oregon has led the nation by implementing evidence-based community supervision practices that are cost-effective and reduce recidivism; and

Whereas increasing investments in local law enforcement agencies, community correction agencies, victims' services and specialty courts will provide local communities with the resources necessary to hold offenders accountable and reduce future criminal conduct; and

Whereas the State of Oregon can maintain an effective and sustainable public safety system by directing savings that result from averted prison growth toward investments in our local communities; and

Whereas the passage of this 2013 Act will allow the Seventy-seventh Legislative Assembly to invest in our local communities by upgrading our existing local public safety infrastructure; and

Whereas the Seventy-seventh Legislative Assembly declares that future savings resulting from the passage of this 2013 Act must continue to be invested in our local public safety systems; now, therefore,

Be It Enacted by the People of the State of Oregon:

MARIJUANA OFFENSES

SECTION 1. ORS 475.900 is amended to read:

475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

[(D) One hundred grams or more of a mixture or substance containing a detectable amount of hashish;]

[(E) One hundred and fifty grams or more of a mixture or substance containing a detectable amount of marijuana;]

[(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[(G)] (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (i) 3,4-methylenedioxyamphetamine;
- (ii) 3,4-methylenedioxymethamphetamine; or
- (iii) 3,4-methylenedioxy-N-ethylamphetamine.

(b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at least three of the following factors:

(A) The delivery was of heroin, cocaine, [hashish, marijuana,] methamphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;

(B) The offender was in possession of \$300 or more in cash;

(C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;

(D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;

(E) The offender was in possession of drug transaction records or customer lists;

(F) The offender was in possession of stolen property;

(G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;

(H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

(I) The offender was using public lands for the manufacture of controlled substances;

(J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or

(K) The offender was in possession of controlled substances in an amount greater than:

- (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
- (ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
- (iii) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

[(iv) Eight grams or more of a mixture or substance containing a detectable amount of hashish;]

[(v) One hundred ten grams or more of a mixture or substance containing a detectable amount of marijuana;]

[(vi)] (iv) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[(vii)] (v) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[(viii)] (vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (I) 3,4-methylenedioxyamphetamine;

(II) 3,4-methylenedioxyamphetamine; or
(III) 3,4-methylenedioxy-N-ethylamphetamine.
(c) The violation constitutes a violation of ORS 475.848, 475.852, [475.858,] 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

(d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

(B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.

(e) The violation constitutes a violation of ORS 475.860 (4)(a) or a **violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.**

(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery of heroin, cocaine, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxyamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

(b) The violation constitutes possession of:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

[(D) One hundred grams or more of a mixture or substance containing a detectable amount of hashish;]

[(E) One hundred fifty grams or more of a mixture or substance containing a detectable amount of marijuana;]

[(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[(G)] (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxyamphetamine; or

(iii) 3,4-methylenedioxy-N-ethylamphetamine.

(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as:

(a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or

(b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.

(4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) As used in this section, "mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

SECTION 2. (1) The amendments to ORS 475.900 by section 1 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 475.900 by section 1 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

CRIMINAL DRIVING WHILE SUSPENDED OR REVOKED

SECTION 3. ORS 811.182 is amended to read:

811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship or probationary permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit to the Department of Transportation.

(c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

(e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(f) A suspension of a commercial driver license under ORS 809.404.

(g) A revocation resulting from habitual offender status under ORS 809.640.

(h) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(i) A suspension for failure to perform the duties of a driver under ORS 811.705.

(j) A suspension for reckless driving under ORS 811.140.

(k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(L) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(m) A suspension for use of a commercial motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a minimum fine of at least \$2,000 if it is the person's second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category [6] 4 of the rules of the [*Oregon Criminal Justice*] commission.

(b) **Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the commission, if the suspension or revocation resulted from:**

(A) **Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or**

(B) **Aggravated vehicular homicide or aggravated driving while suspended or revoked.**

SECTION 4. (1) The amendments to ORS 811.182 by section 3 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) **Notwithstanding subsection (1) of this section, the amendments to ORS 811.182 by section 3 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.**

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SECTION 5. ORS 137.717 is amended to read:

137.717. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225[*robbery in the third degree under ORS 164.395, identity theft under ORS 165.800*] or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, **robbery in the third degree under ORS 164.395**, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), **identity theft under ORS 165.800**, possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Theft in the second degree under ORS 164.045;
- (b) Theft in the first degree under ORS 164.055;
- (c) Aggravated theft in the first degree under ORS 164.057;
- (d) Unauthorized use of a vehicle under ORS 164.135;
- (e) Mail theft or receipt of stolen mail under ORS 164.162;
- (f) Burglary in the second degree under ORS 164.215;
- (g) Burglary in the first degree under ORS 164.225;
- (h) Criminal mischief in the second degree under ORS 164.354;
- (i) Criminal mischief in the first degree under ORS 164.365;
- (j) Computer crime under ORS 164.377;
- (k) Forgery in the second degree under ORS 165.007;
- (L) Forgery in the first degree under ORS 165.013;
- (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- (o) Fraudulent use of a credit card under ORS 165.055;
- (p) Identity theft under ORS 165.800;
- (q) Possession of a stolen vehicle under ORS 819.300;
- (r) Trafficking in stolen vehicles under ORS 819.310; and
- (s) Any attempt to commit a crime listed in this subsection.

(3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by two months for each previous conviction the person has that:

(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

(B) Was not used as a predicate for the presumptive sentence described in subsection (1) of this section.

(b) Previous convictions may not increase a presumptive sentence described in subsection (1) of this section by more than 12 months under this subsection.

(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.

(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.

(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court finds that:

(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;

(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;

(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:

- (A) Increase public safety;
- (B) Enhance the likelihood that the person will be rehabilitated; and
- (C) Not unduly reduce the appropriate punishment.

(7)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(8) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(9) As used in this section:

(a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.

(b) "Previous conviction" includes:

(A) Convictions occurring before, on or after July 1, 2003; and

(B) Convictions entered in any other state or federal court for comparable offenses.

SECTION 6. (1) The amendments to ORS 137.717 by section 5 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 137.717 by section 5 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

SECTION 7. ORS 137.717, as amended by section 5 of this 2013 Act, is amended to read:

137.717. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395, identity theft under ORS 165.800** or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, [*robbery in the third degree under ORS 164.395,*] forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), [*identity theft under ORS 165.800,*] possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery

in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Theft in the second degree under ORS 164.045;
- (b) Theft in the first degree under ORS 164.055;
- (c) Aggravated theft in the first degree under ORS 164.057;
- (d) Unauthorized use of a vehicle under ORS 164.135;
- (e) Mail theft or receipt of stolen mail under ORS 164.162;
- (f) Burglary in the second degree under ORS 164.215;
- (g) Burglary in the first degree under ORS 164.225;
- (h) Criminal mischief in the second degree under ORS 164.354;
- (i) Criminal mischief in the first degree under ORS 164.365;
- (j) Computer crime under ORS 164.377;
- (k) Forgery in the second degree under ORS 165.007;
- (L) Forgery in the first degree under ORS 165.013;
- (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- (o) Fraudulent use of a credit card under ORS 165.055;
- (p) Identity theft under ORS 165.800;
- (q) Possession of a stolen vehicle under ORS 819.300;
- (r) Trafficking in stolen vehicles under ORS 819.310; and
- (s) Any attempt to commit a crime listed in this subsection.

(3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by two months for each previous conviction the person has that:

(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

(B) Was not used as a predicate for the presumptive sentence described in subsection (1) of this section.

(b) Previous convictions may not increase a presumptive sentence described in subsection (1) of this section by more than 12 months under this subsection.

(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.

(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.

(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court finds that:

(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;

(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;

(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:

(A) Increase public safety;

(B) Enhance the likelihood that the person will be rehabilitated; and

(C) Not unduly reduce the appropriate punishment.

(7)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(8) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(9) As used in this section:

(a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.

(b) "Previous conviction" includes:

(A) Convictions occurring before, on or after July 1, 2003; and

(B) Convictions entered in any other state or federal court for comparable offenses.

SECTION 8. (1) The amendments to ORS 137.717 by section 7 of this 2013 Act become operative on July 1, 2023.

(2) The amendments to ORS 137.717 by section 7 of this 2013 Act apply to crimes committed on or after July 1, 2023.

SECTION 9. ORS 475.933 is repealed.

SECTION 10. (1) The repeal of ORS 475.933 by section 9 of this 2013 Act applies to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the repeal of ORS 475.933 by section 9 of this 2013 Act does not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

SECTION 11. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

(a) Manufacture or delivery of a controlled substance, other than marijuana, under ORS 475.752 (1);

(b) Creation or delivery of a counterfeit substance, other than marijuana, under ORS 475.752 (2);

(c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;

(d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;

(e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;

(f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;

(g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;

(h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and

(i) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.

(3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of sentence. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(5) As used in this section, "previous conviction" includes convictions entered in any other state or federal court for comparable offenses.

SECTION 12. (1) Section 11 of this 2013 Act becomes operative on July 1, 2023.

(2) Section 11 of this 2013 Act applies to crimes committed on or after July 1, 2023.

TRANSITIONAL LEAVE AUGUST 1, 2013 - JULY 1, 2023

SECTION 13. ORS 421.168 is amended to read:

421.168. (1) The *[Director of the]* Department of Corrections shall establish *[by rule]* a short-term transitional leave program. The program shall provide inmates with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the inmate's discharge to post-prison supervision.

(2) *[An inmate may submit a transition plan to the Department of Corrections. The plan shall indicate that the inmate has secured]* **The Department of Corrections shall identify each inmate who is eligible for the short-term transitional leave program and shall, in conjunction with the supervisory authority for the county to which the inmate will be released, assist each eligible inmate in preparing a transition plan and in identifying and applying for an employment, educational or other transitional opportunity in the community *[to which the offender will be released and that a leave of up to 30 days is an essential part of the offender's successful reintegration into the community].***

(3) *[Upon verification of]* **If the inmate's transition plan is approved by the department and is an essential part of the inmate's successful reintegration into the community, the department may grant a transitional leave no more than *[30]* 90 days prior to the inmate's discharge date.**

(4) *[No inmate shall be]* **An inmate is not eligible for transitional leave before having served six months of prison incarceration.**

(5) The department shall *[establish by rule]* **adopt rules to carry out the provisions of this section. The rules must include a set of release conditions for *[offenders]* inmates released on transitional leave status. An *[offender]* inmate on transitional leave status *[shall be]* is subject to immediate return to prison for any violation of the conditions of release.**

(6) The provisions of this section do not apply to inmates whose sentences were imposed under ORS 137.635, 137.700 or 137.707 or any other provision of law that prohibits release on any form of temporary leave from custody.

SECTION 14. (1) The amendments to ORS 421.168 by section 13 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 421.168 by section 13 of this 2013 Act do not apply to persons who were originally sentenced before

August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction proceeding or for any other reason.

SECTION 15. ORS 421.168, as amended by section 13 of this 2013 Act, is amended to read:

421.168. (1) The Department of Corrections shall establish a short-term transitional leave program. The program shall provide inmates with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the inmate's discharge to post-prison supervision.

(2) The Department of Corrections shall identify each inmate who is eligible for the short-term transitional leave program and shall, in conjunction with the supervisory authority for the county to which the inmate will be released, assist each eligible inmate in preparing a transition plan and in identifying and applying for an employment, educational or other transitional opportunity in the community.

(3) If the inmate's transition plan is approved by the department and is an essential part of the inmate's successful reintegration into the community, the department may grant a transitional leave no more than [90] 30 days prior to the inmate's discharge date.

(4) An inmate is not eligible for transitional leave before having served six months of prison incarceration.

(5) The department shall adopt rules to carry out the provisions of this section. The rules must include a set of release conditions for inmates released on transitional leave status. An inmate on transitional leave status is subject to immediate return to prison for any violation of the conditions of release.

(6) The provisions of this section do not apply to inmates whose sentences were imposed under ORS 137.635, 137.700 or 137.707 or any other provision of law that prohibits release on any form of temporary leave from custody.

SECTION 16. (1) **The amendments to ORS 421.168 by section 15 of this 2013 Act become operative on July 1, 2023.**

(2) **The amendments to ORS 421.168 by section 15 of this 2013 Act apply to crimes committed on or after July 1, 2023.**

EARNED DISCHARGE

SECTION 17. (1) **A person convicted of a felony and sentenced to probation or to the legal and physical custody of the supervisory authority under ORS 137.124 (2) is eligible for a reduction in the period of supervision for complying with terms of supervision, including the payment of restitution and participation in recidivism reduction programs.**

(2) **The maximum amount of time credits earned under this section may not exceed 50 percent of the period of supervision imposed.**

(3) **Time credits may not be used to shorten the period of supervision to less than six months.**

(4)(a) **The Department of Corrections shall adopt rules to carry out the provisions of this section. The rules must establish a process for granting, retracting and restoring time credits earned under this section.**

(b) **The supervisory authority shall comply with the rules adopted under this section.**

SECTION 18. Sections 22 and 23, chapter 660, Oregon Laws 2009, are repealed.

SECTION 19. (1) **Section 17 of this 2013 Act and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act apply to sentences imposed on or after August 1, 2013.**

(2) **Notwithstanding subsection (1) of this section, section 17 of this 2013 Act and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.**

SECTION 20. ORS 423.483 is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) **The baseline funding described in paragraph (a) of this subsection:**

(A) May not be decreased as a result of time credits earned under section 17 of this 2013 Act.

(B) May not be increased as a result of community-based sanctions, services and programs that are funded under section 53 of this 2013 Act.

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county, and the portion of funding made available to the county under ORS 423.530 reverts to the Department of Corrections. In no case does responsibility for supervision and provision of correctional services to misdemeanor offenders revert to the department.

(3) As used in this section, "current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

SECTION 21. The amendments to ORS 423.483 by section 20 of this 2013 Act become operative on July 1, 2015.

SECTION 22. ORS 423.483, as amended by section 20 of this 2013 Act, is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) The baseline funding described in paragraph (a) of this subsection[.]

[(A)] may not be decreased as a result of time credits earned under section 17 of this 2013 Act.

[(B) *May not be increased as a result of community-based sanctions, services and programs that are funded under section 53 of this 2013 Act.*]

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county, and the portion of funding made available to the county under ORS 423.530 reverts to the Department of Corrections. In no case does responsibility for supervision and provision of correctional services to misdemeanor offenders revert to the department.

(3) As used in this section, "current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

SECTION 23. The amendments to ORS 423.483 by section 22 of this 2013 Act become operative on July 1, 2025.

PROBATION CONDITIONS

SECTION 24. ORS 137.540 is amended to read:

137.540. (1) The court may sentence the defendant to probation subject to the following general conditions unless specifically deleted by the court. The probationer shall:

(a) Pay supervision fees, fines, restitution or other fees ordered by the court.

(b) Not use or possess controlled substances except pursuant to a medical prescription.

(c) Submit to testing for controlled substance or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.

(d) Submit to a risk and needs assessment as directed by the supervising officer;

[(d)] (e) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.

[(e)] (f) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.

[(f)] (g) If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.

[(g)] (h) Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.

[(h)] (i) Permit the parole and probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.

[(i)] (j) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.

[(j)] (k) Obey all laws, municipal, county, state and federal.

[(k)] (L) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.

[(L)] (m) Not possess weapons, firearms or dangerous animals.

[(m)] (n) If recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer if the probationer:

(A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

(B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

(C) Was previously convicted in another jurisdiction of an offense that would constitute a sex offense under ORS 163.305 to 163.467 if committed in this state.

[(n)] (o) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.

[(o)] (p) Report as required and abide by the direction of the supervising officer.

[(p)] (q) If required to report as a sex offender under ORS 181.596, report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:

(A) When supervision begins;

(B) Within 10 days of a change in residence;

(C) Once each year within 10 days of the probationer's date of birth;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the probationer for the

protection of the public or reformation of the probationer, or both, including, but not limited to, that the probationer shall:

(a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence or to the premises thereof, or be subject to any combination of such confinement and restriction, such confinement or restriction or combination thereof to be for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser.

(b) For felonies committed on or after November 1, 1989[.]:

(A) Be confined in the county jail, or be subject to other custodial sanctions under community supervision, or both, as provided by rules of the Oregon Criminal Justice Commission[.]; **and**

(B) Comply with any special conditions of probation that are imposed by the supervising officer in accordance with subsection (8) of this section.

(c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as specifically ordered by the court in order to pay restitution.

(3) When a person who is a sex offender is released on probation, the court shall impose as a special condition of probation that the person not reside in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides, without the approval of the person's supervising parole and probation officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides, without the approval of the director of the probation agency that is supervising the person or of the county manager of the Department of Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole and probation officer of a person subject to the requirements of this subsection shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subsection:

(a) "Dwelling" has the meaning given that term in ORS 469B.100.

(b) "Dwelling" does not include a residential treatment facility or a halfway house.

(c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(d) "Sex offender" has the meaning given that term in ORS 181.594.

(4)(a) If the person is released on probation following conviction of a sex crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the court, if requested by the victim, shall include as a special condition of the person's probation that the person not reside within three miles of the victim unless:

(A) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county;

(B) The person demonstrates to the court by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;

(C) The person demonstrates to the court by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the probation; or

(D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(b) A victim may request imposition of the special condition of probation described in this subsection at the time of sentencing in person or through the prosecuting attorney.

(c) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to within three miles of the probationer's residence, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.

(5) When a person who is a sex offender, as defined in ORS 181.594, is released on probation, the Department of Corrections or the county community corrections agency, whichever is appropriate, shall notify the city police department, if the person is going to reside within a city, and the county sheriff's office of the county in which the person is going to reside of the person's release and the conditions of the person's release.

(6) Failure to abide by all general and special conditions [*imposed by the court and supervised by the Department of Corrections or a county community corrections agency*] **of probation** may result in arrest, modification of conditions, revocation of probation or imposition of structured, intermediate sanctions in accordance with rules adopted under ORS 137.595.

(7) The court may order that probation be supervised by the court. If the court orders that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the General Fund. Fees imposed in a justice court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court under this subsection shall be paid to the city treasurer.

(8)(a) The court may at any time modify the conditions of probation.

(b) **When the court orders a defendant placed under the supervision of the Department of Corrections or a community corrections agency, the supervising officer may file with the court a proposed modification to the special conditions of probation. The supervising officer shall provide a copy of the proposed modification to the district attorney and the probationer. If the district attorney:**

(A) **Files an objection to the proposed modification less than five judicial days after the proposed modification was filed, the court shall schedule a hearing no later than 10 judicial days after the proposed modification was filed, unless the court finds good cause to schedule a hearing at a later time.**

(B) **Does not file an objection to the proposed modification less than five judicial days after the proposed modification was filed, the proposed modification becomes effective five judicial days after the proposed modification was filed.**

(9) A court may not order revocation of probation as a result of the probationer's failure to pay restitution unless the court determines from the totality of the circumstances that the purposes of the probation are not being served.

(10) It is not a cause for revocation of probation that the probationer failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

(11) If the court determines that a defendant has violated the terms of probation, the court shall collect a \$25 fee from the defendant. The fee becomes part of the judgment and may be collected in the same manner as a fine. Fees collected under this subsection in the circuit court shall be deposited by the clerk of the court in the General Fund. Fees collected in a justice court under this subsection shall be paid to the county treasurer. Fees collected in a municipal court under this subsection shall be paid to the city treasurer.

(12) As used in this section, "attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 181.594.

SECTION 25. The amendments to ORS 137.540 by section 24 of this 2013 Act apply to crimes committed on or after August 1, 2013.

HARASSMENT

SECTION 26. ORS 166.065 is amended to read:

166.065. (1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; [*or*]

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or

(C) Distributing a visual recording, as defined in ORS 163.665, of the other person engaged in sexually explicit conduct, as defined in ORS 163.665, or in a state of nudity, as defined in ORS 163.700, when the other person is under 18 years of age at the time of the recording;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

(b) Harassment that is committed under the circumstances described in subsection (1)(c) of this section is committed in either the county in which the communication originated or the county in which the communication was received.

(3) Harassment is a Class B misdemeanor.

(4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a person violates:

(a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact and the offensive physical contact consists of touching the sexual or other intimate parts of the other person; [or]

(b) Subsection (1)(a)(C) of this section; or

[(b)] (c) Subsection (1)(c) of this section and:

(A) The person has a previous conviction under subsection (1)(c) of this section and the victim of the current offense was the victim or a member of the family of the victim of the previous offense;

(B) At the time the offense was committed, the victim was protected by a stalking protective order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person from contacting the victim;

(C) At the time the offense was committed, the person reasonably believed the victim to be under 18 years of age and more than three years younger than the person; or

(D)(i) The person conveyed a threat to kill the other person or any member of the family of the other person;

(ii) The person expressed the intent to carry out the threat; and

(iii) A reasonable person would believe that the threat was likely to be followed by action.

(5) It is not a defense to a charge under subsection (1)(a)(C) of this section that the defendant did not know the age of the victim.

[(5)] (6) As used in this section, "electronic threat" means a threat conveyed by electronic mail, the Internet, a telephone text message or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.

SECTION 27. The amendments to ORS 166.065 by section 26 of this 2013 Act apply to crimes committed on or after August 1, 2013.

REENTRY COURTS AUGUST 1, 2013 - JULY 1, 2023

SECTION 28. ORS 144.101 is amended to read:

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and [sanctioning] **sanctions** for violations of those conditions for a person convicted of a felony if:

- (a) The term of imprisonment imposed on the person is more than 12 months;
- (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
- (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
- (e) The person is subject to a term of post-prison supervision under ORS 144.103;
- (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
- (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
- (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

(2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over **the** imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.

(3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.

(4) If a circuit court in a participating county, as defined in section 29 of this 2013 Act, enters an order admitting a person into a reentry court under section 29 (3) of this 2013 Act, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.

~~[(4)]~~ (5) Nothing in this section affects the jurisdiction of the board over **the** imposition of conditions of parole and ~~[sanctioning]~~ **sanctions** for violations of those conditions.

SECTION 29. (1) When a circuit court in a participating county sentences a person to a term of imprisonment, the court may order that the person participate in a reentry court, subject to admission under subsection (3) of this section, as a condition of post-prison supervision.

(2) At any time prior to the termination of post-prison supervision, the supervisory authority may provide a report to the reentry court recommending that a person sentenced under subsection (1) of this section be admitted into the reentry court.

(3) When a reentry court receives a report described in subsection (2) of this section, or an inmate release plan prepared under ORS 144.096, that recommends the admission of a person sentenced under subsection (1) of this section into a reentry court, the court may enter an order admitting the person into the reentry court.

(4) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, when a court enters an order admitting a person into a reentry court, the court may:

(a) Issue a warrant and cause the person to be arrested for violating a condition of post-prison supervision.

(b) Appoint counsel to represent the person in accordance with ORS 135.050, if the person is financially eligible.

(c) Determine whether the conditions of post-prison supervision have been violated and impose sanctions for the violations.

(5)(a) When the court conducts a post-prison supervision violation hearing under this section, the person may admit or deny alleged violations of conditions of post-prison supervision. The person and the state may present evidence at the hearing.

(b) If the court determines by a preponderance of the evidence that a person admitted into a reentry court has violated the conditions of post-prison supervision, the court may impose sanctions for the violations that are consistent with the rules adopted under ORS 144.106 and 144.107, except that the court may not impose a sanction of imprisonment in a correctional facility that exceeds 12 months.

(6)(a) When a court issues a warrant under this section and causes a person admitted into a reentry court to be arrested and taken into custody for violating a condition of post-prison supervision, the person shall be brought before a magistrate during the first 36 hours in custody, excluding Saturdays, Sundays and holidays. The magistrate may order the person held pending a violation hearing or transferred to the county in which the reentry court is located, or may release the person upon the condition that the person appear in court at a later date for a post-prison violation hearing. If the person is held on an out-of-county warrant, the magistrate may order the person released subject to an additional order that the person report within seven calendar days to the reentry court.

(b) Except for good cause shown, if the person is held in custody and the violation hearing is not held within 14 calendar days following the person's arrest, the person shall be released from custody.

(7) As used in this section, "participating county" means a county:

(a) That has applied for and received a grant under section 53 of this 2013 Act to administer a reentry court; and

(b) For which the presiding judge of the judicial district in which the county is located issues an order establishing a reentry court steering committee consisting of:

(A) A circuit court judge;

(B) A district attorney;

(C) A criminal defense attorney;

(D) A parole and probation officer;

(E) A representative of the business community;

(F) A representative of the education community; and

(G) Any other person the presiding judge determines is appropriate.

SECTION 30. ORS 144.096 is amended to read:

144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than [60] **75** days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than [10] **25** days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

(e) **If an inmate was sentenced under section 29 of this 2013 Act and the release plan recommends that the inmate participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.**

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules. **If the inmate was sentenced under section 29 of this 2013 Act and the supervisory authority recommends that the inmate participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.**

(3) A release plan prepared under subsection (1) or (2) of this section must include:

(a) A description of support services and program opportunities available to the inmate;

(b) The recommended conditions of post-prison supervision;

(c) The level of supervision that shall be consistent with the inmate's risk assessment classification;

(d) Any other conditions and requirements as may be necessary to promote public safety;

(e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and

(f) Any conditions necessary to assist the reformation of the inmate.

SECTION 31. ORS 144.106 is amended to read:

144.106. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

(a) Modification of or additions to the conditions of supervision; and

(b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; [or]

(b) A reentry court imposes a local sanction under section 29 of this 2013 Act; or

[(b)] (c) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency, [or] the supervisory authority **or the court** imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency, [or] the supervisory authority **or the court**.

SECTION 32. ORS 40.015 is amended to read:

40.015. (1) The Oregon Evidence Code applies to all courts in this state except for:

(a) A hearing or mediation before a magistrate of the Oregon Tax Court as provided by ORS 305.501;

(b) The small claims department of a circuit court as provided by ORS 46.415; and

(c) The small claims department of a justice court as provided by ORS 55.080.

(2) The Oregon Evidence Code applies generally to civil actions, suits and proceedings, criminal actions and proceedings and to contempt proceedings except those in which the court may act summarily.

(3) ORS 40.225 to 40.295 relating to privileges apply at all stages of all actions, suits and proceedings.

(4) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply in the following situations:

(a) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under ORS 40.030.

(b) Proceedings before grand juries, except as required by ORS 132.320.

(c) Proceedings for extradition, except as required by ORS 133.743 to 133.857.

(d) Sentencing proceedings, except proceedings under ORS 138.012 and 163.150, as required by ORS 137.090 or proceedings under ORS 136.765 to 136.785.

(e) Proceedings to revoke probation, except as required by ORS 137.090.

(f) Proceedings conducted in a reentry court under section 29 of this 2013 Act.

[(f)] (g) Issuance of warrants of arrest, bench warrants or search warrants.

[(g)] (h) Proceedings under ORS chapter 135 relating to conditional release, security release, release on personal recognizance, or preliminary hearings, subject to ORS 135.173.

[(h)] (i) Proceedings to determine proper disposition of a child in accordance with ORS 419B.325 (2) and 419C.400 (4).

[(i)] (j) Proceedings under ORS 813.210, 813.215, 813.220, 813.230, 813.250 and 813.255 to determine whether a driving while under the influence of intoxicants diversion agreement should be allowed or terminated.

[(j)] (k) Proceedings under ORS 147.530 relating to victims' rights, except for the provisions of ORS 40.105 and 40.115.

SECTION 33. Section 29 of this 2013 Act is repealed on July 1, 2023.

SECTION 34. ORS 144.101, as amended by section 28 of this 2013 Act, is amended to read:

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

- (a) The term of imprisonment imposed on the person is more than 12 months;
- (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
- (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
- (e) The person is subject to a term of post-prison supervision under ORS 144.103;
- (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
- (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
- (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

(2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.

(3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.

[(4) *If a circuit court in a participating county, as defined in section 29 of this 2013 Act, enters an order admitting a person into a reentry court under section 29 (3) of this 2013 Act, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.*]

[(5)] (4) Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions.

SECTION 35. ORS 144.096, as amended by section 30 of this 2013 Act, is amended to read:

144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than [75] **60** days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than [25] **10** days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

[(e) *If an inmate was sentenced under section 29 of this 2013 Act and the release plan recommends that the inmate participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.*]

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules. [*If the inmate was sentenced under section 29 of this 2013 Act and the supervisory authority recommends that the inmate participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.*]

(3) A release plan prepared under subsection (1) or (2) of this section must include:

- (a) A description of support services and program opportunities available to the inmate;

- (b) The recommended conditions of post-prison supervision;
- (c) The level of supervision that shall be consistent with the inmate's risk assessment classification;
- (d) Any other conditions and requirements as may be necessary to promote public safety;
- (e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and
- (f) Any conditions necessary to assist the reformation of the inmate.

SECTION 36. ORS 144.106, as amended by section 31 of this 2013 Act, is amended to read:

144.106. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

- (a) Modification of or additions to the conditions of supervision; and
- (b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; **or**

[(b) A reentry court imposes a local sanction under section 29 of this 2013 Act; or]

[(c) (b) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency[,] **or** the supervisory authority [*or the court*] imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency[,] **or** the supervisory authority [*or the court*].

SECTION 37. ORS 40.015, as amended by section 32 of this 2013 Act, is amended to read:

40.015. (1) The Oregon Evidence Code applies to all courts in this state except for:

(a) A hearing or mediation before a magistrate of the Oregon Tax Court as provided by ORS 305.501;

- (b) The small claims department of a circuit court as provided by ORS 46.415; and
- (c) The small claims department of a justice court as provided by ORS 55.080.

(2) The Oregon Evidence Code applies generally to civil actions, suits and proceedings, criminal actions and proceedings and to contempt proceedings except those in which the court may act summarily.

(3) ORS 40.225 to 40.295 relating to privileges apply at all stages of all actions, suits and proceedings.

(4) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply in the following situations:

(a) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under ORS 40.030.

(b) Proceedings before grand juries, except as required by ORS 132.320.

(c) Proceedings for extradition, except as required by ORS 133.743 to 133.857.

(d) Sentencing proceedings, except proceedings under ORS 138.012 and 163.150, as required by ORS 137.090 or proceedings under ORS 136.765 to 136.785.

(e) Proceedings to revoke probation, except as required by ORS 137.090.

[(f) Proceedings conducted in a reentry court under section 29 of this 2013 Act.]

[(g) (f) Issuance of warrants of arrest, bench warrants or search warrants.

[(h)] (g) Proceedings under ORS chapter 135 relating to conditional release, security release, release on personal recognizance, or preliminary hearings, subject to ORS 135.173.

[(i)] (h) Proceedings to determine proper disposition of a child in accordance with ORS 419B.325 (2) and 419C.400 (4).

[(j)] (i) Proceedings under ORS 813.210, 813.215, 813.220, 813.230, 813.250 and 813.255 to determine whether a driving while under the influence of intoxicants diversion agreement should be allowed or terminated.

[(k)] (j) Proceedings under ORS 147.530 relating to victims' rights, except for the provisions of ORS 40.105 and 40.115.

SECTION 38. (1) The amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37 of this 2013 Act become operative on July 1, 2023.

(2) The repeal of section 29 of this 2013 Act by section 33 of this 2013 Act and the amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37 of this 2013 Act do not affect the jurisdiction of a reentry court over a person sentenced under section 29 of this 2013 Act.

SPECIALTY COURTS

SECTION 39. (1) As used in this section, "specialty courts" means drug court programs as defined in ORS 3.450, veterans' courts, mental health courts or any other similar court or docketing system.

(2)(a) The Oregon Criminal Justice Commission shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of the best practices applicable to specialty courts.

(b) After consulting with the Judicial Department, the commission shall develop evidence-based standards that may be applied to specialty courts. The standards must:

(A) Be designed to reduce recidivism in a cost-effective manner; and

(B) When appropriate, target medium-risk and high-risk offenders.

(3) The Chief Justice of the Supreme Court may issue an order applicable to specialty courts. The order may include a requirement that a circuit court that operates a specialty court review the standards described in subsection (2) of this section.

CORRECTIONS FORECAST

SECTION 40. ORS 184.351 is amended to read:

184.351. (1) The Oregon Department of Administrative Services shall issue state corrections population forecasts including, but not limited to, expected populations of prisons and jails and community corrections caseloads, to be used by:

(a) The Department of Corrections in preparing budget requests;

(b) The Oregon Criminal Justice Commission in considering amendments to sentencing guidelines; and

(c) Any other state agency concerned with the effect of offender populations or policy developments on budgeting.

(2) The Oregon Department of Administrative Services shall issue state corrections population forecasts on April 1 and October 1 of each year.

(3) When the Oregon Department of Administrative Services issues a state corrections population forecast, the forecast must, whenever possible:

(a) Identify the forecast's margin of error; and

(b) Attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast.

(4) As used in this section, "baseline underlying the forecast" includes population demographics and crime trends.

MEASURING OUTCOMES

SECTION 41. ORS 182.515, as amended by section 37, chapter 37, Oregon Laws 2012, is amended to read:

182.515. As used in this section and ORS 182.525:

(1) "Agency" means:

- (a) The Department of Corrections;
- (b) The Oregon Youth Authority;
- (c) The Youth Development Council; and
- (d) That part of the Oregon Health Authority that deals with mental health and addiction issues.

(2) ["*Cost effective*"] "**Cost-effective**" means that [*cost savings*] **benefits** realized over a reasonable period of time are greater than costs, **as determined utilizing a cost-benefit analytical tool identified by the Oregon Criminal Justice Commission.**

(3) "Evidence-based program" means a program that:

- (a) Incorporates significant and relevant practices based on scientifically based research; and
- (b) Is [*cost effective*] **cost-effective.**

(4)(a) "Program" means a treatment or intervention program or service that is intended to:

- (A) Reduce the propensity of a person to commit crimes;
- (B) Improve the mental health of a person with the result of reducing the likelihood that the person will commit a crime or need emergency mental health services; or
- (C) Reduce the propensity of a person who is less than 18 years of age to engage in antisocial behavior with the result of reducing the likelihood that the person will become a juvenile offender.

(b) "Program" does not include:

(A) An educational program or service that an agency is required to provide to meet educational requirements imposed by state law; or

(B) A program that provides basic medical services.

(5) "Scientifically based research" means research that obtains reliable and valid knowledge by:

- (a) Employing systematic, empirical methods that draw on observation or experiment;
- (b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; [*and*]

(c) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators; **and**

(d) **Utilizing randomized controlled trials when possible and appropriate.**

SECTION 42. Before the Oregon Criminal Justice Commission identifies a cost-benefit analytical tool under ORS 182.515 (2), the commission shall consult with the Task Force on Public Safety established under section 57 of this 2013 Act.

SECTION 43. Section 42 of this 2013 Act is repealed on the date of the convening of the 2017 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 44. ORS 182.525 is amended to read:

182.525. (1) An agency [*as defined in ORS 182.515*] shall spend at least 75 percent of state moneys that the agency receives for programs on evidence-based programs.

(2) The agency shall submit a biennial report containing:

(a) An assessment of each program on which the agency expends funds, including but not limited to whether the program is an evidence-based program;

(b) The percentage of state moneys the agency receives for programs that is being expended on evidence-based programs;

(c) The percentage of federal and other moneys the agency receives for programs that is being expended on evidence-based programs; and

(d) A description of the efforts the agency is making to meet the requirement of subsection (1) of this section.

(3) The agency shall submit the report required by subsection (2) of this section no later than September 30 of each even-numbered year to the interim legislative committee dealing with judicial matters.

(4) If an agency, in any biennium, spends more than 25 percent of the state moneys that the agency receives for programs on programs that are not evidence based, the Legislative Assembly shall consider the agency's failure to meet the requirement of subsection (1) of this section in making appropriations to the agency for the following biennium.

(5) *[The] An agency may adopt rules necessary to carry out the provisions of this section, including but not limited to rules defining a reasonable period of time for purposes of determining cost effectiveness.*

SECTION 45. (1) As used in this section, "recidivism" means the arrest, conviction or incarceration of a person who has previously been convicted of a crime, if the arrest, conviction or incarceration:

(a) Is for a new crime and occurs:

(A) Three years or less after the date the person was convicted of the previous crime;

or

(B) Three years or less after the date the person was released from custody, if the person was incarcerated as a result of the conviction for the previous crime; or

(b) Is for any reason and occurs:

(A) Three years or less after the date the person was convicted of the previous crime;

or

(B) Three years or less after the date the person was released from custody, if the person was incarcerated as a result of the conviction for the previous crime.

(2) When the Oregon Department of Administrative Services, the Department of Corrections, the Oregon Criminal Justice Commission or any other public body as defined in ORS 174.109 conducts a statistical evaluation of the rate at which persons convicted of a crime recidivate, the public body shall include an evaluation of recidivism as that term is defined in:

(a) Subsection (1)(a) of this section; and

(b) Subsection (1)(b) of this section.

FISCAL IMPACT STATEMENTS

SECTION 46. ORS 173.029 is amended to read:

173.029. (1) For any measure reported out of a committee of the Legislative Assembly, the effect of which is to create a new crime, [or] increase the period of incarceration allowed or required for an existing crime **or otherwise modify sentencing or state corrections policies**, the Legislative Fiscal Officer, with the aid of the Oregon Department of Administrative Services, Legislative Revenue Officer, state agencies and affected local governmental units, shall prepare a fiscal impact statement describing the fiscal impact that the measure would, if enacted, have on the state as well as on local governmental units.

(2) In particular and to the extent practicable, the Legislative Fiscal Officer shall determine and describe in the statement the following:

(a) The fiscal impact on state and local law enforcement agencies, including an estimate of the increase in anticipated number of arrests annually;

(b) The fiscal impact on state and local courts, including an estimate of the increase in the anticipated number of *[trials]* **cases** annually;

(c) The fiscal impact on district attorney offices, including an estimate of the increase in the anticipated number of prosecutions annually;

(d) The fiscal impact on public defense resources, including an estimate of the increase in the anticipated number of cases annually; and

(e) The fiscal impact on state and local corrections resources, including resources supporting parole and probation supervision, and also including an estimate of the increase in the anticipated number of bed-days to be used annually at both the state and local level as a result of the passage of the measure.

(3) The fiscal impact statement required under this section must describe the fiscal impact that the measure would, if enacted, have on the state as well as on local governmental units for 10 years, beginning on the effective date of the measure.

(4) A state agency that prepares and submits to the Legislative Fiscal Officer fiscal impact statements or related fiscal information applicable to a measure introduced before the Legislative Assembly, the effect of which is to create a new crime, increase the period of incarceration allowed or required for an existing crime or otherwise modify sentencing or state corrections policies, shall describe the fiscal impact that the measure would have on the state agency for 10 years, beginning on the effective date of the measure.

SECTION 47. The amendments to ORS 173.029 by section 46 of this 2013 Act become operative on January 1, 2014.

OREGON CENTER FOR POLICING EXCELLENCE

SECTION 48. Section 49 of this 2013 Act is added to and made a part of ORS 181.610 to 181.712.

SECTION 49. (1) The Oregon Center for Policing Excellence is established within the Department of Public Safety Standards and Training.

(2) The primary purposes of the center are:

(a) To make policing in this state more effective and efficient by:

(A) Developing and promulgating updated skills in policing among officers, managers and administrators; and

(B) Making use of the body of knowledge of effective and efficient methods in the criminal justice system.

(b) To make communities safer.

(c) To reduce, through the use of police practices proven to be effective, the number of offenders entering the criminal justice system.

(3) To accomplish the purposes described in subsection (2) of this section, the center shall provide opportunities for:

(a) Practitioners to present actual problems to researchers in order to identify potential approaches to resolving the problems.

(b) Researchers to present to practitioners the results of research on effective and efficient methods of policing.

(c) Practitioners and researchers to form partnerships to test the effectiveness of practices and approaches.

(d) The development and delivery of training to public safety personnel in this state to enhance their skills related to:

(A) Problem solving;

(B) Leadership and facilitation;

(C) Effective application and use of information from reputable research; and

(D) Identifying and addressing future challenges affecting public safety.

(4) All agencies of state government, as defined in ORS 174.111, and local government, as defined in ORS 174.116, are directed to cooperate with the center in achieving the purposes described in subsection (2) of this section.

(5) The Director of the Department of Public Safety Standards and Training may adopt rules necessary to implement the provisions of this section.

CORRECTIONAL COSTS

SECTION 50. (1) The Legislative Assembly hereby establishes as a goal the reduction of the Department of Corrections' per-inmate costs by five percent over the 10-year period beginning July 1, 2013.

(2) No later than October 1, 2014, the department shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245 that identifies cost containment solutions designed to reduce the department's per-inmate costs by five percent over the 10-year period beginning July 1, 2013, while maintaining public safety, prison security and recidivism reduction programs.

(3) The department shall provide a copy of the report to the Task Force on Public Safety established under section 57 of this 2013 Act.

(4) As used in this section, "per-inmate costs":

(a) Includes costs attributable to the provision of security and housing, health care, food services, treatment programs and recidivism reduction programs and other direct costs related to institutional operations.

(b) Does not include costs attributable to community corrections grants, debt service, capital construction, opening new correctional facilities or inflation.

SECTION 51. Section 50 of this 2013 Act is repealed on January 2, 2015.

JUSTICE REINVESTMENT PROGRAM

SECTION 52. The Justice Reinvestment Account is established, separate and distinct from the General Fund. All moneys in the account are continuously appropriated to the Oregon Criminal Justice Commission for the purpose of making grants to counties in accordance with section 53 of this 2013 Act.

SECTION 53. (1) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable.

(2) The Justice Reinvestment Grant Review Committee is established, consisting of the following members:

(a) The Governor shall appoint the following five members:

(A) One member shall be a district attorney.

(B) One member shall be a county sheriff.

(C) One member shall be a chief of police.

(D) One member shall be a county commissioner.

(E) One member shall be a community corrections director who is not a sheriff.

(b) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(c) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(3)(a) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(b) The committee shall elect one of its members to serve as chairperson.

(c) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.

(d) The committee shall meet at times and places specified by the call of the chairperson or a majority of the voting members of the committee.

(e) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(4) After consulting with the Justice Reinvestment Grant Review Committee, the commission shall adopt rules to administer the Justice Reinvestment Program. The rules must include:

(a) A methodology for reviewing and approving grant applications and distributing grant funds. Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee with the ability to approve grant applications, subject to final approval by the commission.

(b) A process for evaluating the efficacy of community-based sanctions, services and programs funded under this section.

(5) Notwithstanding subsections (1) and (4) of this section, upon receipt of a letter of intent to participate in the Justice Reinvestment Program submitted by a county, the commission shall distribute to the county a proportional share of funds deposited in the Justice Reinvestment Account. The proportion shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.

(6) Funds distributed under this section must be spent on the provision of community-based sanctions, services and programs.

SECTION 54. Section 53 of this 2013 Act is amended to read:

Sec. 53. (1)(a) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable.

(b) Notwithstanding paragraph (a) of this subsection, no less than 10 percent of grant funds awarded under this section must be distributed to community-based nonprofit organizations that provide services to victims of crime.

(2) The Justice Reinvestment Grant Review Committee is established, consisting of the following members:

(a) The Governor shall appoint the following five members:

(A) One member shall be a district attorney.

(B) One member shall be a county sheriff.

(C) One member shall be a chief of police.

(D) One member shall be a county commissioner.

(E) One member shall be a community corrections director who is not a sheriff.

(b) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(c) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(3)(a) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(b) The committee shall elect one of its members to serve as chairperson.

(c) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.

(d) The committee shall meet at times and places specified by the call of the chairperson or a majority of the voting members of the committee.

(e) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(4) An application for a grant described in this section must be submitted by a local public safety coordinating council convened under ORS 423.560.

(5)(a) During a grant application period established by the commission, the proportion of grant funds available to each county shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.

(b) At the conclusion of the grant application period, the commission shall award grants to counties in accordance with rules adopted by the commission. If unallocated funds remain at the conclusion of the grant acceptance period, the commission may establish a supplemental grant period and distribute the unallocated funds.

(6) The commission shall regularly evaluate the community-based sanctions, services and programs funded under this section. The commission shall report the results of an evaluation conducted under this section to a committee of the Legislative Assembly related to the judiciary.

(7)(a) Before applying for grant funds to administer a community-based program described in subsection (9)(a)(D) of this section, the county must obtain the consent of the presiding judge of the judicial district in which the county is located.

(b) A grant application to administer a community-based program described in subsection (9)(a)(D) of this section must include the costs of appointed counsel.

[(4)] (8) After consulting with the Justice Reinvestment Grant Review Committee, the commission shall adopt rules to administer the Justice Reinvestment Program. The rules must include:

(a) A methodology for reviewing and approving grant applications and distributing grant funds. Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee with the ability to approve grant applications, subject to final approval by the commission.

(b) A process for evaluating the efficacy of community-based sanctions, services and programs funded under this section.

[(5) *Notwithstanding subsections (1) and (4) of this section, upon receipt of a letter of intent to participate in the Justice Reinvestment Program submitted by a county, the commission shall distribute to the county a proportional share of funds deposited in the Justice Reinvestment Account. The proportion shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.*]

[(6) *Funds distributed under this section must be spent on the provision of community-based sanctions, services and programs other than jails.*]

(9) As used in this section:

(a) "Community-based programs" includes:

(A) Work release programs;

(B) Structured, transitional leave programs;

(C) Evidence-based programs designed to reduce recidivism that include the balanced administration of sanctions, supervision and treatment;

(D) Administering a reentry court under section 29 of this 2013 Act; and

(E) Specialty courts aimed at medium-risk and high-risk offenders.

(b) "County" includes a regional collection of counties.

SECTION 55. The amendments to section 53 of this 2013 Act by section 54 of this 2013 Act become operative on July 1, 2015.

SECTION 56. Sections 52 and 53 of this 2013 Act are repealed on July 1, 2023.

TASK FORCE ON PUBLIC SAFETY

SECTION 57. (1) The Task Force on Public Safety is established, consisting of 13 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.

(c) The Chief Justice of the Supreme Court shall appoint two members.

(d) The Governor shall appoint seven members as follows:

(A) One member shall be a county commissioner.

(B) One member shall be a district attorney.

(C) One member shall be a criminal defense attorney.

(D) Two members shall be representatives of law enforcement.

(E) One member shall be a representative of community corrections directors who is not a sheriff.

(F) One member shall be a representative of a community-based organization that provides services to victims of crime.

(2) The task force shall:

(a) Review the implementation of the provisions of this 2013 Act;

(b) Consider the policy implications of establishing an earned, conditional release hearing for juvenile offenders convicted under ORS 137.707; and

(c) Evaluate the report submitted to the task force by the Department of Corrections under section 50 of this 2013 Act.

(3) No later than October 1, 2016, the task force shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245 that describes the findings of the task force. The report may include recommendations for legislation. The task force shall provide a copy of the report to the Governor.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) Upon request, the Oregon Criminal Justice Commission, the Department of Corrections and the Oregon Department of Administrative Services shall provide staff support to the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to Oregon Criminal Justice Commission for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 58. Section 57 of this 2013 Act is repealed on the date of the convening of the 2017 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 59. (1) Not less than once per biennium, the Oregon Criminal Justice Commission shall, in conjunction with the Department of Corrections, identify:

(a) The avoided costs to state government resulting from the passage of this 2013 Act; and

(b) Any increased costs to local governments resulting from the passage of this 2013 Act.

(2) No later than January 1 of each odd-numbered year, the commission shall submit a report to the Justice Reinvestment Grant Review Committee established under section 53 of this 2013 Act and to the Legislative Assembly in the manner provided by ORS 192.245, that includes the determinations described in subsection (1) of this section and describes the methodology employed by the commission in reaching those determinations.

(3) As used in this section, "avoided costs" includes the costs of operating correctional facilities and the costs associated with constructing additional prison capacity.

SECTION 60. Section 59 of this 2013 Act is repealed on July 1, 2023.

UNIT CAPTIONS

SECTION 61. The unit captions in this 2013 Act are provided only for the convenience of the reader and do not become a part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

SECTION 62. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House June 27, 2013

.....
Ramona J. Line, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate July 1, 2013

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

.....
Kate Brown, Secretary of State

MEMORANDUM

DATE: June 26, 2014
TO: Justice James W. Hardesty, Supreme Court of Nevada
FROM: Nicolas Anthony, Senior Principal Deputy Legislative Counsel
SUBJECT: **Oregon Public Safety Reforms**

This memorandum responds to your request for information on the Oregon Public Safety Reforms, otherwise commonly referred to as justice reinvestment initiatives, which were enacted in 2013 pursuant to Oregon House Bill No. 3194 (HB 3194) (copy enclosed). In preparing this response, I reviewed the enrolled legislation, consulted numerous presentations prepared by the Oregon Criminal Justice Commission (OCJC), and held several conversations with Craig Prins, Executive Director of the OCJC, (503) 378-4861.

BACKGROUND

According to the OCJC, the overarching goal of HB 3194 was to “control prison population, invest savings in local public safety system and ensure that future savings continue to be invested in local public safety systems.” The measure as originally introduced contained more sweeping legislative reforms (including sentencing reforms for certain juvenile offenders who presently face automatic transfer to the adult criminal justice system); however, as part of the legislative process and compromise by certain interested parties, the measure was amended prior to its final passage. Notwithstanding the legislative changes, the measure in its enrolled form is still considered to be model justice reinvestment initiative legislation. According to the Fiscal Impact Statement prepared by the Oregon Legislative Fiscal Office, the total bed count impact by the modifications within the measure is anticipated to be a reduction of approximately 700 beds in the 2013-2015 biennium and 840 beds in 2015-2017. As a result of its passage, the measure has been lauded by many policy experts as a bipartisan effort to improve public safety and to save the Oregon taxpayers roughly \$300 million over the next decade.

KEY COMPONENTS OF HOUSE BILL NO. 3194

In summary, the enrolled version of HB 3194 makes various changes to sentencing schemes for certain crimes, offers offender incentives, and establishes the Center for Policing Excellence, the Task Force on Public Safety and the Justice Reinvestment Grant Program. More specifically, the omnibus bill contained seven major components, summarized below as follows:

A. Sentencing Reforms

1. Probation for Marijuana Offenses

The measure makes adjustments to the sentencing guidelines grid for marijuana possession, delivery and manufacture based on weight. Prior to its enactment, marijuana possession offenses were a Class B felony, regardless of weight. Further, depending on the crime severity scale, some offenders received prison sentences while others received felony probation. The OCJC anticipates that the changes in the measure will result in these offenders receiving felony probation rather than incarceration. In order to estimate the effect of the measure, the OCJC used 2012 incarceration data to determine the potential future changes to offender placement. Of the 135 marijuana incarcerations in 2012, the OCJC estimates that 112 offenders would have been sentenced to felony probation rather than incarceration, under the provisions of HB 3194. The average length of stay of these offenders was 17.8 months.

2. Probation for Felony Driving with a Suspended License

The measure reduces felony driving while suspended or revoked from a crime category 6 to a crime category 4 on the Oregon sentencing grid. Prior to the measure's passage, felony driving while suspended or revoked offenders were incarcerated in a prison facility with an average length of stay of 16 months. Of the 56 felony driving while suspended or revoked incarcerations, for the year 2012, the OCJC estimates that approximately 41 would have been sentenced to felony probation rather than incarceration, under the provisions of HB 3194.

3. Sentence Reduction for Robbery in the Third and Identity Theft Offenses

The measure reduces the presumptive sentence as determined by the court for Measure 57 (an Oregon "tough on crime" Ballot Measure passed by the voters in 2008) offenders convicted of robbery in the third degree or identity theft, from a presumptive term of incarceration of 24 months to 18 months. The OCJC anticipates that the changes to these certain property crimes will reduce the average length of stay for approximately 50 incarcerations per year for robbery in the third degree. Using only sentences of less than 60 months for identity theft, the OCJC anticipates that 185 convictions per year would be reduced from the average length of stay of 24 months down to 18 months, under the provisions of HB 3194.

4. Harassment

The measure modifies the crime of misdemeanor harassment to include distributing a visual recording of sexually explicit material of another person when the other person is under 18 years of age. This crime is commonly known as sexting. Under current Oregon law such conduct that is already criminalized under the felony crime of using a child in a display of a sex act and carries a mandatory minimum prison sentence of 70 months. Thus, this statutory amendment gives prosecutors discretion to charge a person who violates such provisions with the crime of misdemeanor harassment.

B. Transitional Leave, Earned Discharge and Downward Disposition

1. Transitional Leave

Currently, the Oregon Department of Corrections' (ODOC) transitional leave program provides resources and support to incarcerated individuals as they prepare to reenter the community. The measure expands the transitional leave available for qualified prisoners from 30 days to 90 days prior to discharge.

2. Earned Discharge

The measure makes various changes to earned discharge, which are time credits granted to offenders in exchange for compliance with the terms of supervision, including payment of restitution and participation in recidivism reducing programs. Under the measure, an offender sentenced to probation for a felony conviction may have the length of his or her supervisory sentence reduced by up to 50 percent so long as the offender has been under supervision for at least six months.

3. Downward Disposition for Drug Delivery and Manufacturing Sentences

The measure repeals the provisions of Oregon Revised Statutes 475.933 (a Measure 57 statute that prohibited dispositional downward departure for certain drug trafficking cases where the individual was a repeat offender) until the year 2023. This statutory change thereby gives a judge the option for probation even when the offender has previous convictions for the same or similar drug offenses.

C. Probation

The measure authorizes a supervising officer or a community corrections agency to file a modification for special conditions of probation, as needed, after filing those changes with the court, and after hearing no objection from the district attorney within five judicial days.

D. Task Force on Public Safety

The measure establishes a 13 member Task Force on Public Safety, which is charged with reviewing the implementation of House Bill No. 3194, studying the policy implications of establishing earned conditional release hearings for certain juvenile offenders, and reviewing the cost-reduction proposal submitted by the ODOC as required by the measure. The Task Force is required to submit a report to the Legislative Assembly by October 1, 2016, and expires by limitation upon the convening of the 2017 regular session.

E. Measuring Outcomes

The measure requires the OCJC to serve as a clearinghouse and information center for data related to specialty courts and to develop evidence-based standards which are applicable to specialty courts and designed to reduce recidivism and target medium and high-risk offenders. The measure specifically requires: (1) the identification of the state corrections population forecast's margin of error; (2) the OCJC to identify a cost-benefit analysis tool; and (3) statistical evaluations of recidivism rates to include an evaluation of "recidivism" as newly defined by the measure.

F. Center for Policing Excellence

The measure establishes the Oregon Center for Policing Excellence within the Department of Public Safety Standards and Training for the purpose of making policing in Oregon more effective and efficient. The Center is directed to develop and promulgate updated skills in policing among officers, managers and administrators. To date, the Department has hired personnel to renew management training as a precursor to using evidence based policing.

G. Justice Reinvestment Grant Program and Reentry Courts

1. Justice Reinvestment Grant Program

The measure establishes the Justice Reinvestment Grant Program, to be administered by the OCJC. The OCJC will establish the Justice Reinvestment Grant Review Committee to write the rules and procedures to apply for grants to make recommendations for awarding future grants. The Grant Program will provide grants to counties that establish a process to assess offenders and provide a continuum of community-based programs that reduce recidivism and decrease the county's utilization of Department of Corrections institutions. According to the OCJC, the goal of the Grant Program is to "reinvest money not spent on prisons into community based sanctions, services and programs that are based on: offender assessments, cost benefit analysis of programs, and evidenced based best practice to reduce recidivism."

The measure stipulates that beginning on July 1, 2015 not less than 10 percent of grant funds awarded must be spent on victims' services. The measure further requires the OCJC to regularly evaluate best practices (for community-based programs being funded by the grants) and to report the results of the evaluations to the Legislature.

2. Reentry Courts

Under the measure, reentry courts may be created in participating counties where a steering committee has been established. A steering committee must consist of certain identified criminal justice practitioners and stakeholders. A reentry court then establishes concurrent jurisdiction with the post prison supervising authority, and may impose sanctions for violation of that supervision.

REINVESTMENT APPROPRIATIONS

According to the OCJC, based on the projected cost savings as a result of House Bill No. 3194, the 2013 Oregon Legislature appropriated funds to the following criminal justice areas:

- \$5 million for Jails
- \$9 million for Drug Courts
- \$15 million for the Justice Reinvestment Grant Program
- \$7 million for Victims Services
- \$215 million statewide for Community Corrections (a total budget increase of approximately 15 percent)

POTENTIAL NEXT STEPS

According to Mr. Prins, as potential next steps for justice reinvestment initiative type reform in Nevada, interested stakeholders may wish to:

- Identify appropriate sentencing and criminal justice changes within the NRS;
- Research and develop statistics to accurately identify the fiscal cost savings;
- Identify areas to reinvest the cost savings (community based supervision, specialty courts, etc.); and
- Build consensus among interested persons and elected officials.

CONCLUDING REMARKS

I hope this information is helpful. Should you have any questions on the information provided, please do not hesitate to contact me at (775) 684-6830 or nanthony@lcb.state.nv.us.

K

**REPORT OF ADVISORY COMMISSION ON THE
ADMINISTRATION OF JUSTICE'S
SUBCOMMITTEE ON THE MEDICAL USE OF MARIJUANA
(NRS 176.01247)**

Subcommittee Members:

- Senator Tick Segerblom, Chair
- Senator Mark Hutchison
- Assemblywoman Olivia Diaz
- Assemblywoman Michele Fiore
- Christine Jones Brady, Deputy Public Defender, Washoe County
- Yvanna Cancela, Political Director, Culinary Workers Union Local 226
- Bob Coffin, Councilmember, City of Las Vegas
- Russ Cutolo, Sergeant, Las Vegas Metropolitan Police Department
- Chris Giunchigliani, Commissioner, Clark County
- Gary Modafferi, Esq.
- Sandra Douglass Morgan, City Attorney, City of North Las Vegas
- Keith Munro, Assistant Attorney General
- Hillary Schieve, Councilmember, City of Reno
- Jennifer Solas, Advocate for Persons Who Use Medical Marijuana
- Eric Spratley, Lieutenant, Washoe County Sheriff's Office
- Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada
- John Watkins, Esq.
- Chad Westom, Health Bureau Chief, Department of Health and Human Services
- Kristina Wildeveld, Esq.

Subcommittee Meetings:

The Subcommittee on the Medical Use of Marijuana (Subcommittee) held two meetings during the interim. The first meeting convened on July 9, 2014, and the second on August 21, 2014. A quorum of the Subcommittee was present at each meeting.

At the meeting held on July 9, 2014, the Subcommittee focused its discussion on the implementation of the medical marijuana program pursuant to Senate Bill No. 374 (2013). The Subcommittee heard from representatives of the Department of Health and Human Services, as well as local government representatives. The Subcommittee also received an overview on driving under the influence of marijuana as well as procedures for obtaining a medical marijuana registry identification card.

At the second meeting of the Subcommittee held on August 21, 2014, the Subcommittee heard from the Chairman of the Gaming Control Board, as to the Board's policies on gaming licensees involvement in the medical marijuana industry. Chairman Burnett also discussed the "transfer of interests" in gaming licenses, as the Subcommittee discussed

possible methods to allow for the transfer of medical marijuana establishment licenses. The Subcommittee also received testimony from national experts on driving under the influence of marijuana. Additionally, the Subcommittee heard from a number of persons associated with ancillary businesses related to the medical marijuana industry (trimmers, massage therapists, cash management entities, insurance companies and internet travel agencies).

Subcommittee Recommendations:

At the Subcommittee's final meeting held on August 21, 2014, the Subcommittee voted upon and approved a total of 10 recommendations to be forwarded to the full Advisory Commission on the Administration of Justice. The Subcommittee's recommendations are as follows:

1. Draft legislation to authorize the sale and transportation of medical marijuana across county lines.
2. Draft legislation to amend NRS 453A.200 to further extend the sunset limitation (currently expiring by limitation on March 31, 2016), during which persons who are authorized to engage in the medical use of marijuana and who were cultivating, growing or producing marijuana on or before July 1, 2013, are "grandfathered" to continue such activity. This recommendation would extend the sunset limitation for an additional two years, through March 31, 2018.
3. Draft legislation to authorize the Division of Public and Behavioral Health to adopt regulations requiring background checks and state licensure of third party vendors and ancillary businesses associated with the medical marijuana industry (such as harvesting, trimming, infusion, insurance, cash management, massage therapists, etc.).
4. Draft legislation to amend Nevada's criminal laws to provide that weights for purposes of prosecution of certain marijuana offenses (such as possession and trafficking) must only include the usable active amount of THC or marijuana and not the total weight of an edible or infused product.
5. Draft legislation to provide exceptions for medical marijuana registry identification cardholders for considerations in drug court, child custody, child abuse and neglect proceedings, foster care, and offender program eligibility.
6. Draft legislation to require the University system to allow medical marijuana registry cardholders to possess and use medical marijuana on campus. Further, amend NRS 453A.600 to remove the provisions requiring approval of the Federal Government before the University of Nevada School of Medicine establishes a program for the evaluation and research of the medical use of marijuana.
7. Draft legislation to eliminate the "per se" nanogram amounts for driving under the influence of marijuana or marijuana metabolite. (NRS 484C.110, 484C.120, 488.410)

Also, draft legislation to remove any prohibitions in employment contexts for employees who lawfully use medical marijuana. Finally, draft legislation to require the Board of Pharmacy to reschedule marijuana from a Schedule I to a Schedule II controlled substance.

8. Draft legislation to authorize a cooperative (co-op) form of ownership for medical marijuana establishments.

9. Draft legislation to amend state law regarding the allocation of dispensaries by county, to allow the largest local government jurisdictions (by census population) in each county to have the largest number of allocated dispensaries. (NRS 453A.324) Also, draft legislation to repeal the confidentiality provisions of applications, records or other written documentation for LLC's or any business entity that applies for a medical marijuana license through the Division. (NRS 453A.700)

10. Draft legislation to allow for the transfer of marijuana establishment licenses, and model the approach after the "transfer of interests" process used for gaming licenses. Also, draft legislation to establish a regulatory structure, similar to the Nevada Gaming Control Board, to oversee and regulate the medical marijuana program.

L

**REPORT OF ADVISORY COMMISSION ON THE
ADMINISTRATION OF JUSTICE'S
SUBCOMMITTEE TO REVIEW ARRESTEE DNA
(NRS 176.01246)**

Subcommittee Members:

- Steven Yeager, Deputy Public Defender, Clark County, Chair
- Rachel Anderson, Professor of Law, UNLV
- Tracy Birch, Executive Director, Criminalistics Bureau, Las Vegas Metro
- Steve Gresko, Senior Criminalist/CODIS Administrator, WCSO
- Renee Romero, Director, Forensics Lab, WCSO
- Vanessa Spinazola, Legislative and Advocacy Director, ACLU of Nevada
- Bertral Washington, Las Vegas Urban League

Subcommittee Meetings:

The Subcommittee to Review Arrestee DNA (Subcommittee) held two meetings during the interim. The first meeting convened on July 9, 2014, and the second on August 25, 2014. A quorum of the Subcommittee was present at each meeting.

At the meeting held on July 9, 2014, the Subcommittee focused its discussion on the implementation of Senate Bill No. 243 (2013). The meeting proceeded as a roundtable discussion of interested stakeholders, with the Subcommittee discussing the protocols and procedures for the collection, submission, identification, genetic marker analysis, storage, maintenance, uploading and disposition of biological specimens, DNA profiles and DNA records. The Subcommittee also reviewed the total number of arrestee records received since the legislation went into effect on July 1, 2014, and the total dollar amounts raised pursuant to the \$3 administrative assessment enacted in the legislation. Finally, the Subcommittee discussed the DNA expungement process and reviewed the expungement application form.

At the second meeting of the Subcommittee held on August 25, 2014, the Subcommittee heard from national expert Julie Samuels of the Urban Institute. Ms. Samuels covered topics from her national research study entitled, "Collecting DNA at Arrest: Policies, Practices and Implementation." The Subcommittee also received testimony from the Central Repository of Nevada Records of Criminal History as to the current process for expungement of DNA records, and continued with an in-depth review of the implementation of Senate Bill No. 243.

Subcommittee Recommendations:

At the Subcommittee's final meeting held on August 25, 2014, the Subcommittee voted upon and approved a total of three recommendations to be forwarded to the full Advisory Commission on the Administration of Justice. The Subcommittee's recommendations are as follows:

1. Draft a letter to the State DNA Database (Forensic Science Division of the Washoe County Sheriff's Office) and the Central Repository of Nevada Records of Criminal History, encouraging the entities to research and review the seven states that currently have automatic expungement for arrestee DNA records, and to further develop best practices for Nevada should Nevada choose to proceed with automatic expungement in the future. Additionally, the entities are urged to identify the necessary fiscal resources to develop a working statewide computer information sharing system for tracking and identifying criminal adjudications that, among many other uses, might facilitate tracking and expunging DNA records.
2. Draft a letter to the Governor and the Chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance, urging the Governor and the Legislature to consider budgetary funding for a statewide computer database to track criminal records and adjudications that, among many other uses, could assist in identifying and expunging DNA records. This letter will also include a carbon copy of the letter the Subcommittee directs to the State DNA Database and the Central Repository, and will reference the fact that entities are working together to derive actual implementation costs for a computer network information sharing system. The Subcommittee will forward the fiscal findings as soon as they become available.
3. Include a policy statement in the final report of the 2013-14 Advisory Commission on the Administration of Justice, encouraging all interested criminal justice stakeholders (district attorneys, criminal defense attorneys, judges, court clerks, crime laboratories, law enforcement and the Central Repository) to work together to develop a statewide criminal justice information sharing database. In an ideal world, the computer database should include the following information related to DNA and criminal records: criminal charges and records, race/nationality statistics, demographic crime statistics, percentage of felony arrests resulting in conviction (further broken down by type of resulting conviction), any known actual immigration consequences of conviction, data on voluntary versus forced collection of DNA (including whether the DNA is appropriately categorized as arrestee or convicted person DNA), data related to expungement efforts, any exonerations resulting from arrestee DNA, and any other data deemed appropriate or desirable by the interested criminal justice stakeholders.

NM

BILL DRAFT REQUEST FROM ATTORNEY GENERAL

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # _____

FROM: Advisory Commission on the Administration of Justice's Subcommittee on the Rights of Victims and Sources of Funding for Victims of Crime, Victims of Crime Subcommittee

TO: LEGISLATIVE COUNSEL

- I. Intent of Proposed Bill: (Brief summary of intended effect)
Permits limited access to Department of Corrections' confidential data.

- II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)
This bill allows the Department of Corrections to provide confidential victim information collected pursuant to NRS 209.521 to the Office of the Attorney General. The Attorney General may only use this information for the limited purpose of notifying victim registrants of the status of pending litigation.

- III. NRS Title, Chapter and Section affected: (If applicable)
NRS Title 16, Chapter 209, Section 209.521.

- IV. Effective Date:
 Default (October 1, 2015)
 July 1, 2015
 Upon Passage and Approval
 Other _____

- V. Suggested language: (Optional) (Use continuation sheet if necessary)
Section 1. NRS 209.521 is hereby amended to read as follows:
209.521 1. If a victim of an offender provides his or her current address to the Director and makes a written request for notification of the offender's release or escape, the Director shall notify the victim if the offender:
(a) Will be released into the community for the purpose of employment, training or education, or for any other purpose for which release is authorized; or
(b) Has escaped from the custody of the Department.

2. An offender must not be temporarily released into the community for any purpose unless notification of the release has been given to every victim of the offender who has requested notification and has provided his or her current address.
3. The Director may not be held responsible for any injury proximately caused by the Director's failure to give any notice required pursuant to subsection 1 or 2 if no address was provided to the Director or the address provided is inaccurate or not current.
4. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Director pursuant to this section is confidential.
5. *The Director may authorize the distribution of confidential personal information collected pursuant to this section to the Office of the Attorney General, upon request of that office, for the limited purpose of notifying victim registrants of the status of pending litigation.*
6. ~~5.~~ As used in this section, "victim" has the meaning ascribed to it in NRS 213.005.

VI. FISCAL NOTE:

Effect on the State

Yes _____ No Contains Appropriation _____

Executive Budget _____ Effect Less Than \$2,000 _____

Effect on Local Government

Yes _____ No Contains Appropriation _____

VII. Name of person to be consulted if more information is needed:

Name: _____ Telephone No. _____

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request should be mailed:

Signature on behalf of Attorney General

N

BILL DRAFT REQUEST FROM ATTORNEY GENERAL

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # _____

FROM: Advisory Commission on the Administration of Justice's Subcommittee on the Rights of Victims and Sources of Funding for Victims of Crime, Victims of Crime Subcommittee

TO: LEGISLATIVE COUNSEL

- I. Intent of Proposed Bill: (Brief summary of intended effect)
Addresses criminal restitution orders.

- II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)
Existing law requires an affidavit of renewal of judgment in order to renew or collect the restitution contained in an existing criminal judgment once the defendant is delinquent in paying the restitution. NRS 17.214; NRS 176.064; NRS 176.275. Existing law also specifies that a restitution order constitutes a civil liability upon the date of a defendant's discharge from probation. NRS 176A.850 and NRS 176A.870.

This bill allows enforcement of an order of restitution contained in a criminal judgment without taking the additional steps or within the limited timeframe required under existing law.

- III. NRS Title, Chapter and Section affected: (If applicable)
NRS Title 14, Chapter 176, Section 176.275; NRS Title 14, Chapter 176A, Sections 176A.850 and 176A.870.

- IV. Effective Date:
 Default (October 1, 2015)
 July 1, 2015
 Upon Passage and Approval
 Other _____

- V. Suggested language: (Optional) (Use continuation sheet if necessary)
Section 1. NRS 176.275 is hereby amended to read as follows:

176.275 *1.* A judgment which imposes a fine or administrative assessment or requires a defendant to pay restitution or repay the expenses of a defense constitutes a lien in like manner as a judgment for money rendered in a civil action.

2. A criminal restitution order may be recorded and is enforceable as any civil judgment, except that a criminal restitution order does not require renewal pursuant to NRS 17.214. A criminal restitution order does not expire until paid in full.

Sec. 2. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

- (a) Has fulfilled the conditions of probation for the entire period thereof;
- (b) Is recommended for earlier discharge by the Division; or
- (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

~ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge, *which is enforceable pursuant to NRS 176.275.*

3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:

- (a) Is free from the terms and conditions of probation.
- (b) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
- (c) Four years after the date of honorable discharge from probation, is restored to the right to hold office.
- (d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.
- (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.
- (f) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.
- (g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.
- (h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.
- (i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

- (a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

~ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and

(d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,

~ as proof that the person has been restored to the civil rights set forth in subsection 3.

Sec. 3. NRS 176A.870 is hereby amended to read as follows:

176A.870 A defendant whose term of probation has expired and:

1. Whose whereabouts are unknown;
 2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or
 3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,
- ~ is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution *which remains enforceable pursuant to NRS 176.275*, but does not entitle the probationer to any privilege conferred by NRS 176A.850.

VI. FISCAL NOTE:

Effect on the State

Yes _____ No Contains Appropriation _____

Executive Budget _____ Effect Less Than \$2,000 _____

Effect on Local Government

Yes _____ No Contains Appropriation _____

VII. Name of person to be consulted if more information is needed:

Name: _____ Telephone No. _____

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request should be mailed:

Signature on behalf of Attorney General

Date

O

BILL DRAFT REQUEST FROM ATTORNEY GENERAL

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # _____

FROM: Advisory Commission on the Administration of Justice's Subcommittee on the Rights of Victims and Sources of Funding for Victims of Crime, Victims of Crime Subcommittee

TO: LEGISLATIVE COUNSEL

- I. Intent of Proposed Bill: (Brief summary of intended effect)
Provision for payment of sexual assault examinations by the Victims of Crime Fund.

- II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)
This bill permits reimbursement of counties for the cost of sexual assault examinations by the Victims of Crime Fund. The bill limits the reimbursement per year of ten (10) examinations in each county, or up to \$10,000, whichever is greater.

- III. NRS Title, Chapter and Section affected: (If applicable)
NRS Title 15, Chapter 193.

- IV. Effective Date:
 Default (October 1, 2015)
 July 1, 2015
 Upon Passage and Approval
 Other _____

- V. Suggested language: (Optional) (Use continuation sheet if necessary)
Section 1. NRS 217.160 is hereby amended to read as follows:
217.160 1. The compensation officer may order the payment of compensation:
(a) To or for the benefit of the victim ~~H~~,
(1) Including to any county for reimbursement of costs associated with a forensic medical examination pursuant to NRS 217.300, and
(2) Reimbursement for the costs associated with a forensic medical examination shall be limited to a maximum of ten (10) examinations or \$10,000, whichever is greater, per county, per year.

(b) If the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury.

(c) If the victim dies, to or for the benefit of any one or more of the dependents of the victim.

(d) To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.

(e) To a member of the victim's household or immediate family for psychological counseling for emotional trauma suffered by the member as a result of the crime of murder as defined in NRS 200.010.

2. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Household" means an association of persons who live in the same home or dwelling and who:

(1) Have significant personal ties to the victim; or

(2) Are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

(c) "Immediate family" means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

VI. FISCAL NOTE:

Effect on the State

Yes No Contains Appropriation _____

Executive Budget _____ Effect Less Than \$2,000 _____

Effect on Local Government

Yes No Contains Appropriation _____

VII. Name of person to be consulted if more information is needed:

Name: _____ Telephone No. _____

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request

should be mailed:

Signature on behalf of Attorney General

Date

P

Wanted by NV-CURE: Amendment of NRS 209.385 to include a provision requiring all prisoners to be tested for the hepatitis c virus. All that is required is the insertion of [and the hepatitis c virus] in section 1 of the statute and [or the hepatitis c virus] in section 6(a) of the statute. See highlighted provisions below.

In addition, a provision needs to be added requiring the testing for hep c of all currently confined prisoners. A suggestion for that provision is added highlighted provision below.

This is important because hepatitis c is just as dangerous as the HIV virus and is TRANSMITTED in the same manner as HIV. Hep C is even more dangerous than HIV because the hep c virus survives longer when exposed to the atmosphere than the human immunodeficiency virus.

NRS 209.385 Testing offenders for exposure to human immunodeficiency virus; disclosure of name of offender whose tests are positive; segregation of offender; duties of Director.

1. Each offender committed to the custody of the Department for imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus **[and the hepatitis c virus]**. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender: **All currently confined prisoners that have not been tested for the HIV or Hep C virus within the past twelve (12) months must be tested within twelve (12) months of the passage of this amended statute.**

(a) The appropriate approved tests must be administered; and

(b) The offender must receive counseling regarding the virus.

2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.

3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:

(a) The Director;

(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;

(c) The manager or warden of the facility or institution at which the offender is confined; and

(d) Each other employee of the Department whose normal duties involve the employee with the offender or require the employee to come into contact with the blood or bodily fluids of the offender.

4. The offender must be segregated from every other offender whose test results are negative if:

(a) The results of a supplemental test are positive; and

(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary

meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.

5. The Director, with the approval of the Board:

(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.

(b) May adopt such regulations as are necessary to carry out the provisions of this section.

6. As used in this section:

(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus **[or the hepatitis c virus]**.

(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.

(Added to NRS by 1989, 385; A 1993, 6, 516, 517; 1997, 906)

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Senate Bill No. 107–Committee on Judiciary

CHAPTER.....

AN ACT relating to the administration of justice; restricting the use of corrective room restriction on children who are in confinement in a state, local or regional facility for the detention of children; requiring the Advisory Commission on the Administration of Justice to conduct a study concerning detention and incarceration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill authorize the use of corrective room restriction on a child who is detained in a state, local or regional facility for the detention of children only if all other less-restrictive options have been exhausted and only to: (1) modify the negative behavior of the child; (2) hold the child accountable for a violation of a rule of the facility; or (3) ensure the safety of the child, the staff or others or to ensure the security of the facility. **Sections 1 and 2** also: (1) specify certain actions that must be taken with respect to a child subjected to corrective room restriction; (2) provide that if a child is subjected to corrective room restriction, the period of corrective room restriction must be the minimum time required to address the negative behavior, rule violation or threat; and (3) provide that a child must not be subjected to corrective room restriction for more than 72 consecutive hours.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) **Section 7** of this bill requires the Commission to conduct a study concerning certain aspects of detention and incarceration in this State.

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

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

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A child who is detained in a local or regional facility for the detention of children may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of:

- (a) Modifying the negative behavior of the child;*
- (b) Holding the child accountable for a violation of a rule of the facility; or*
- (c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.*



2. Any action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.

3. A local or regional facility for the detention of children shall conduct a safety and well-being check on a child subjected to corrective room restriction at least once every 10 minutes while the child is subjected to corrective room restriction.

4. A child may be subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat to the safety of the child, staff or others or to the security of the facility, and the child must be returned to the general population of the facility as soon as reasonably possible.

5. A child who is subjected to corrective room restriction for more than 24 hours must be provided:

(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals and medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance and educational services as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

6. A local or regional facility for the detention of children shall not subject a child to corrective room restriction for more than 72 consecutive hours.

7. A local or regional facility for the detention of children shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for 72 consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.



8. *As used in this section, "corrective room restriction" means the confinement of a child to his or her room as a disciplinary or protective action and includes, without limitation:*

- (a) Administrative seclusion;*
- (b) Behavioral room confinement;*
- (c) Corrective room rest; and*
- (d) Room confinement.*

Sec. 2. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A child who is detained in a facility may be subjected to corrective room restriction only if all other less-restrictive options have been exhausted and only for the purpose of:*

- (a) Modifying the negative behavior of the child;*
- (b) Holding the child accountable for a violation of a rule of the facility; or*
- (c) Ensuring the safety of the child, staff or others or ensuring the security of the facility.*

2. *Any action that results in corrective room restriction for more than 2 hours must be documented in writing and approved by a supervisor.*

3. *A facility shall conduct a safety and well-being check on a child subjected to corrective room restriction at least once every 10 minutes while the child is subjected to corrective room restriction.*

4. *A child may be subjected to corrective room restriction only for the minimum time required to address the negative behavior, rule violation or threat to the safety of the child, staff or others or to the security of the facility, and the child must be returned to the general population of the facility as soon as reasonably possible.*

5. *A child who is subjected to corrective room restriction for more than 24 hours must be provided:*

(a) Not less than 1 hour of out-of-room, large muscle exercise each day, including, without limitation, access to outdoor recreation if weather permits;

(b) Access to the same meals and medical and mental health treatment, the same access to contact with parents or legal guardians, and the same access to legal assistance and educational services as is provided to children in the general population of the facility; and

(c) A review of the corrective room restriction status at least once every 24 hours. If, upon review, the corrective room restriction is continued, the continuation must be documented in



writing, including, without limitation, an explanation as to why no other less-restrictive option is available.

6. A facility shall not subject a child to corrective room restriction for more than 72 consecutive hours.

7. A facility shall report monthly to the Juvenile Justice Programs Office of the Division of Child and Family Services the number of children who were subjected to corrective room restriction during that month and the length of time that each child was in corrective room restriction. Any incident that resulted in the use of corrective room restriction for more than 72 consecutive hours must be addressed in the monthly report, and the report must include the reason or reasons any attempt to return the child to the general population of the facility was unsuccessful.

8. As used in this section, "corrective room restriction" means the confinement of a child to his or her room as a disciplinary or protective action and includes, without limitation:

- (a) Administrative seclusion;*
- (b) Behavioral room confinement;*
- (c) Corrective room rest; and*
- (d) Room confinement.*

Secs. 3-6. (Deleted by amendment.)

Sec. 7. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, during the 2013-2014 interim, conduct a study concerning detention and incarceration in this State. The study must include, without limitation, an evaluation of:

1. Procedures regarding placement in, and release from, protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction and solitary confinement;

2. Security threat group identification, including, without limitation, any information relating to gang activity;

3. Notification of release and release procedures;

4. Access provided to children, offenders and prisoners confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement to:

- (a) Mental health services;
- (b) Audio and visual media for appropriate mental stimulation;
- (c) Daily contact with staff;
- (d) Health care services;
- (e) Substance abuse programs and services;



- (f) Reentry resources and transitional programs and services;
- (g) Programs and services for offenders and prisoners who are veterans;
- (h) Educational programming; and
- (i) Other programs and services that are available to the general population;

5. The amount of specialized training provided to staff who interact with children, offenders and prisoners who are confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

6. The number of children, offenders and prisoners confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement who were referred to mental health professionals;

7. The number of children, offenders and prisoners in the general population who were referred to mental health professionals;

8. The number of children, offenders and prisoners confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement who have a mental health diagnosis;

9. The number of children, offenders and prisoners in the general population who have a mental health diagnosis;

10. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among children, offenders and prisoners who are confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

11. The number of suicides and suicide attempts during the years of 2010, 2011 and 2012 among children, offenders and prisoners in the general population;

12. The number of reviews conducted by facilities concerning the placement of a child, offender or prisoner in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement that resulted in the child, offender or prisoner being transferred to the general population;

13. The average length of time children, offenders and prisoners were continuously confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement,



categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;

14. The longest and shortest length of time a child, offender or prisoner was continuously confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement, categorized by age, race, sexual orientation, gender identity or expression and classification of the offense;

15. A summary of the reasons for which children, offenders and prisoners were placed in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

16. The rate of recidivism among children, offenders and prisoners who were confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement at any time before release or discharge;

17. The rate of recidivism among children, offenders and prisoners who were never confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement;

18. The number of children, offenders and prisoners who were confined in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement immediately before being discharged from detention, including those discharged to parole or mandatory supervision; and

19. A calculation of the cost per day of confining a child, offender and prisoner in protective segregation, administrative segregation, disciplinary segregation, disciplinary detention, corrective room restriction or solitary confinement.



Recommendations:

Development of internal tracking systems to monitor the information requested in the study, so that we can get a full picture of what is happening.

Legislation requiring reporting on these tracked statistics. SB 107 reporting on limiting juvenile isolation has led to changes in policies and procedures, and a request for technical assistance in training for facility staff from the State.

New legislation for the NRS should focus on these major problem areas:

- 1) Use of alternatives to segregation in prisons and jails;
- 2) Prohibition of the placement of the mentally ill in solitary confinement;
- 3) Guarantees of sanitary conditions and access to hygiene products while segregated;
- 4) Clear parameters on which violations may lead to placement in segregation;
- 5) Due process guarantees for placement into segregation;
- 6) Regular status checks during all types of segregation;
- 7) Access to programming while segregated;
- 8) Written procedures on earning early release; and
- 9) 30 day limitation on most types of segregation.