

Categories of Misdemeanors



Legislative Counsel Bureau
Bulletin No. 03-4

January 2003



**LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY CATEGORIES OF
MISDEMEANORS (ASSEMBLY CONCURRENT RESOLUTION NO. 2 OF THE
17TH SPECIAL SESSION)**

BULLETIN 03-4

JANUARY 2003

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SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Study Categories of Misdemeanors (Assembly Concurrent Resolution No. 2, File No. 6, *Statutes of Nevada 2001*, 17th Special Session). The Subcommittee will submit these proposals to the 72nd Session of the Nevada Legislature.

CRIMES COMMITTED IN PRISON

1. Send a letter on behalf of the A.C.R. 2 Subcommittee to the Chairmen of the Assembly Committee on Ways and Means, the Senate Committee on Finance, and the Senate and Assembly Committees on Judiciary, with a copy to the sheriff and county commissioners of White Pine County, informing them of the problem of ex-prisoners sent to county jails to serve time for misdemeanor crimes committed in prison.

DOMESTIC VIOLENCE

2. Send a letter on behalf of the A.C.R. 2 Subcommittee to the Committee on Domestic Violence in the Attorney General's Office explaining that the judges find the enforcement of mandatory treatment the most difficult element of the domestic violence laws. In the rural communities treatment services are costly and only available at great distances, in some cases. The Subcommittee would like to see greater flexibility for the treatment of first-time offenders.

GRAFFITI

3. Draft legislation to provide the Attorney General's Office with prosecutorial responsibility for criminal violations pertaining to licensing boards and commissions. (BDR 15-191)

OUTDATED LAWS

4. Draft legislation to eliminate various crimes. (BDR 15-190)
5. Draft legislation to repeal prohibition against cosmetological establishment engaging primarily in the business of cutting men's hair or advertising that it primarily engages in the business of cutting men's hair. (BDR 54-189)

PROSECUTORIAL RESPONSIBILITY FOR
STATE BOARDS AND COMMISSIONS

6. Draft legislation to increase penalties for the crime of graffiti. (BDR 54-188)

REPORT TO THE 72ND SESSION OF THE NEVADA LEGISLATURE BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY CATEGORIES OF MISDEMEANORS

I. INTRODUCTION

The 2001 Nevada Legislature adopted Assembly Concurrent Resolution No. 2 (File No. 6, *Statutes of Nevada 2001*, 17th Special Session), which directs the Legislative Commission to conduct an interim study concerning misdemeanors (Appendix A contains Assembly Concurrent Resolution No. 2). Specifically, the study was ordered to determine whether providing categories of misdemeanors and penalties commensurate with Nevada's categories of felonies would provide more consistency in criminal statutory provisions.

On September 6, 2001, the Legislative Commission appointed a subcommittee consisting of the following six legislators to conduct the study and report its findings to the 2003 Legislature:

Assemblyman Mark A. Manendo, Chair
Senator Terry John Care
Senator Mike McGinness
Senator Maurice E. Washington
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter

Legislative Counsel Bureau (LCB) staff services for the study were provided by:

Michelle L. Van Geel, Senior Research Analyst
Bradley A. Wilkinson, Principal Deputy Legislative Counsel
Kelly Lee, Deputy Legislative Counsel
Bonnie Borda Hoffecker, Senior Research Secretary

This report summarizes and provides a comprehensive review of the topics considered and acted upon by the Subcommittee relating to the categorization of misdemeanors. The Subcommittee considered various topics such as:

- The existing statutes concerning misdemeanors to determine whether it is feasible to categorize misdemeanors and provide penalties commensurate with the categorization;
- Whether it is beneficial to amend the *Nevada Revised Statutes* to categorize misdemeanors in such a manner;
- The effect that categorizing misdemeanors in such a manner would have on the courts of this state, including, without limitation, any increase in the volume of cases handled by the courts and any necessary changes to the jurisdiction of the lower courts; and

- Any other matter related to misdemeanors as deemed necessary by the committee.

The consideration and deliberation of these matters were integral to the understanding of whether it is feasible to change the categorization of misdemeanors in Nevada. Formal presentations, staff reports, and public testimony informed the members and meeting attendees of these issues.

At its final meeting and work session, the subcommittee adopted six recommendations, including four bill draft requests (BDRs), for consideration by the 2003 Legislature. The recommendations address the following major topics:

- Crimes committed in prison;
- Domestic violence;
- Graffiti;
- Outdated laws;
- Cosmetology; and
- Prosecutorial responsibility for state boards and commissions.

See Appendix D for the subcommittee's BDRs.

In this document, the subcommittee has attempted to present its findings and recommendations in a concise form. All supporting documents and minutes of meetings are on file with the Research Library of the LCB.

II. PREVIOUS LEGISLATION IN NEVADA

In 1995, the Nevada Legislature enacted legislation to provide categories for felonies. Senate Bill 416 (Chapter 443, *Statutes of Nevada 1995*) modified the sentencing of persons convicted of felonies. In addition to many other things, S.B. 416 categorized each felony in state law based on the type of sentence that may be imposed:

- *Category A* contains the felonies for which the judge may impose a sentence of life or life without the possibility of parole. Felonies carrying a potential sentence of death also are included in this category.
- *Category B* contains the felonies for which the judge may impose a sentence that is not less than 1 year nor more than 20 years.

- *Category C* contains the felonies for which the judge may impose a sentence of not less than 1 year nor more than 5 years.
- *Category D* contains the felonies for which the judge may impose a sentence of not less than 1 year nor more than 4 years.
- *Category E* contains the felonies for which probation is mandatory, but the judge imposes an underlying prison sentence of not less than 1 year nor more than 4 years.

As a result of the categorization of felonies in 1995, the Nevada Legislature thought it was necessary to study whether misdemeanors should be similarly categorized.

III. SUBCOMMITTEE ACTIVITIES

The subcommittee held four meetings, including a work session, during the course of the study. One of the meetings took place in Las Vegas and the other three were held in Carson City. These public hearings were conducted through simultaneous videoconference between meeting rooms at the Legislative Building in Carson City and the Grant Sawyer State Office Building in Las Vegas.

A. November 11, 2001, Meeting

Chairman Manendo introduced the members of the Subcommittee and staff and provided an overview of the duties of the Subcommittee. The duties include, but are not limited to, analyzing existing statutes concerning misdemeanors to determine the feasibility of categorizing misdemeanors and providing penalties commensurate with the categorization. Additionally, Chairman Manendo indicated the Subcommittee must determine if the changes would benefit the State of Nevada and what the effect would be on the state's court system.

Michelle L. Van Geel, Research Analyst, Research Division, presented an overview of current misdemeanors in the state. Following, Ben Graham, Chief Deputy District Attorney, Clark County District Attorney's Office, reviewed Nevada's classification of crimes and commented on granting local jurisdictions the authority to decide if some misdemeanor crimes could be charged as infractions whereby only a fine would be required.

Jim Nadeau, Captain, Washoe County Sheriff's Office, and Stan Olsen, Lieutenant/Government Liaison, Las Vegas Metropolitan Police Department, presented information concerning the potential impact changes to the categories of misdemeanors would have on jail systems and law enforcement. Finally, the Subcommittee took public testimony from various parties, including district attorneys and judges. Noel S. Waters, Carson City District Attorney, reminded the Subcommittee that gross misdemeanors are used as a plea

negotiation took, and urged the members to keep that in mind while reviewing possible changes to the misdemeanor statutes.

B. January 25, 2002, Meeting

Elizabeth Stoffel, Project Attorney for the Nevada Network Against Domestic Violence; Nancy Hart, Deputy Attorney General; and Arthur Mallory, Churchill County District Attorney, presented an overview of the final report of the Nevada Statewide Court Monitoring Project. After the presentation, Ms. Stoffel, Ms. Hart, and Mr. Mallory answered numerous questions from the subcommittee concerning the safety of victims of domestic violence at courthouses, and granting and serving temporary protective orders.

Next, Jerry Landau, Special Assistant, Maricopa County Attorney/Legislative Liaison, described Arizona's use of petty offenses, a criminal offense that is lower than a misdemeanor. Mr. Landau also reported Arizona employs a civil sanction category for most traffic violations. Certain offenses, such as driving under the influence, are not included among the civil sanctions. Mr. Landau clarified that civil sanctions are not criminal offenses.

Judge Max Bunch, President of the Nevada Judges Association (NJA), reported it is the opinion of the NJA to leave the current system of misdemeanors and gross misdemeanors as it is. A. William Maupin, Chief Justice of the Nevada Supreme Court, also testified and reminded the Subcommittee to allow for judicial discretion when considering changes to the criminal code.

Finally, under public comment, the Subcommittee heard comments from Ben Graham, Chief Deputy District Attorney, Clark County District Attorney's Office, regarding changing some lower classes of misdemeanors to infractions. A concern with doing this is not to jeopardize the ability to collect fines or prohibit the ability of police officers to enforce the laws. Additionally, Noel S. Waters, Carson City District Attorney, expressed concern about procedural and ancillary effects of changing certain crimes to infractions, including officer discretion and statutes of limitations.

C. April 19, 2002, Meeting

Kimberly Maxson Rushton, Regional Chief Deputy Attorney General, testified that she had reviewed many of the *Nevada Revised Statutes* (NRS) pertaining to occupational and licensing boards. She indicated there is currently some confusion as to whether district attorneys or the Attorney General should investigate and prosecute violations for these boards. Ms. Rushton recommended that the Subcommittee examine these sections of the NRS and consider giving all investigative and prosecutorial responsibilities for the occupational and licensing boards to the Attorney General's Office.

Gerald Gardner, Chief of the Criminal Division at the Attorney General's Office, concurred with Ms. Rushton's recommendation. In response to the issues raised by Dick Hingson, a

private citizen from Utah, concerning Nevada's law on battery, Mr. Gardner commented that the Subcommittee may want to look at redefining "substantial bodily harm" or "deadly weapon." Additionally, he indicated he does not believe it is necessary to completely reclassify misdemeanors in a manner similar to felonies.

Ben Graham, Chief Deputy District Attorney, Clark County District Attorney's Office, reiterated that he and the others he has spoken with have no suggestions for recommendations. In their view, the system should be left as it is. Stan Olsen, Lieutenant/Government Liaison, Las Vegas Metropolitan Police Department, also indicated the people he spoke with in law enforcement said the current system is satisfactory. He mentioned two minor areas that the Subcommittee may want to review. The first area is that it is a gross misdemeanor to file a false traffic report, while it is only a misdemeanor to file a false crime report. The second issue Lt. Olsen brought to the Subcommittee's attention is the current problem with graffiti.

Former State Senator Ernie Adler suggested a change to NRS 200.485, "Battery that constitutes domestic violence." He described a situation where a client was convicted of domestic battery for slight touching. Mr. Adler maintains that when the Legislature passed the domestic violence law, it was not the legislative intent to include situations for slight touching. In his opinion, there should be a bruise or other proof of the injury. In response, Nancy Hart, Deputy Attorney General, testified she disagrees that there must be bruising. She maintains that the domestic violence laws should not be lightened.

D. June 14, 2002, Meeting

After a short period of public testimony, the members conducted a work session and adopted six recommendations to be forwarded to the 72nd Session of the Nevada Legislature for its consideration. The recommendations are discussed in the following section of this document.

IV. RECOMMENDATIONS

At its final meeting and work session on June 14, 2002, the A.C.R. 2 Subcommittee adopted six recommendations. These proposals, which include four BDRs, are submitted for consideration by the 2003 Legislature. Appendix D contains the BDRs.

Crimes Committed in Prison

Sheriff Bernie Romero, White Pine County, indicated his jail has problems when ex-prisoners are sent to his jail to serve time for misdemeanor crimes committed in prison. For instance, if a prisoner commits a misdemeanor crime in prison, the prisoner will go to jail to serve the misdemeanor sentence once the prison sentence is completed. Sheriff Romero indicated his jail is full of "hardened criminals" who should be in prison, not jail.

- 1. Send a letter on behalf of the A.C.R. 2 Subcommittee to the Chairmen of the Assembly Committee on Ways and Means, the Senate Committee on Finance, and the Senate and Assembly Committees on Judiciary, with a copy to the sheriff and county commissioners of White Pine County, informing them of the problem of ex-prisoners sent to county jails to serve time for misdemeanor crimes committed in prison.**

Domestic Violence

Former State Senator Ernie Adler informed the Subcommittee of numerous situations where people slightly touched their spouse and were convicted of domestic violence. Mr. Adler recommends adopting language similar to the State of Utah's definition of "bodily injury" where "physical pain, illness, or any impairment of physical condition" is required.

Various other people also relayed stories to the Subcommittee of situations where people have been charged and convicted of domestic violence even though the events leading to the arrest and conviction were not a case of domestic violence.

During discussion of this topic, the Subcommittee was informed that one of the complications with Nevada's domestic violence laws is the mandatory treatment, particularly for rural communities. Since this portion of the domestic violence laws are relatively new, the Subcommittee did not want to propose any statutory changes. Rather, the Subcommittee decided to bring some of the concerns to the attention of the Attorney General's Committee on Domestic Violence.

- 2. Send a letter on behalf of the A.C.R. 2 Subcommittee to the Committee on Domestic Violence in the Attorney General's Office explaining that the judges find the enforcement of mandatory treatment the most difficult element of the domestic violence laws. In the rural communities treatment services are costly and only available at great distances, in some cases. The Subcommittee would like to see greater flexibility for the treatment of first-time offenders.**

Graffiti

Stan Olsen, Lieutenant/Government Liaison, Las Vegas Metropolitan Police Department, testified that millions of dollars of private property is damaged as a result of graffiti in Clark County each year. Although many of the perpetrators are caught, Mr. Olsen indicated that in some cases when the cost of the damage is disseminated among the property owners, a felony charge would be reduced to a misdemeanor and then would not be worth prosecuting.

- 3. Draft legislation to increase penalties for the crime of graffiti. (BDR 54-188)**

Outdated Laws

At the direction of Chairman Manendo, staff reviewed the list of misdemeanors provided to the Subcommittee for antiquated statutes that may be repealed.

- 4. Draft legislation to repeal certain antiquated laws. (BDR 15-190)**
- 5. Draft legislation to repeal prohibition against cosmetological establishment engaging primarily in the business of cutting men's hair or advertising that it primarily engages in the business of cutting men's hair. (BDR 54-189)**

Prosecutorial Responsibility for State Boards and Commissions

Kimberly Maxson Rushton, Regional Chief Deputy Attorney General, recommended designating the Attorney General's Office as the primary prosecutor/investigator for cases concerning occupational and licensing boards, since the Attorney General's Office is most familiar with the topic. Ms. Rushton stated this would benefit the state as well as the state's occupational and licensing boards. She indicated this recommendation would not result in a "turf battle" with the municipalities since the municipalities currently only assess civil fines or institute disciplinary proceedings—they do not presently refer cases for prosecution.

- 6. Draft legislation to provide the Attorney General's Office with prosecutorial responsibility for criminal violations pertaining to licensing boards and commissions. (BDR 15-191)**

V. APPENDICES

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APPENDIX A

Assembly Concurrent Resolution No. 2 of 2001 Special Session
(File No. 6, *Statutes of Nevada 2001*, 17th Special Session)

Assembly Concurrent Resolution No. 2—Joint Rules Committee

FILE NUMBER 6

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study concerning misdemeanors.

WHEREAS, During the 1995 Legislative Session, legislation was enacted to provide categories for felonies; and

WHEREAS, The Nevada Revised Statutes currently provides for only two categories of misdemeanors that are designated as misdemeanors and gross misdemeanors; and

WHEREAS, A study needs to be conducted to determine whether providing categories for misdemeanors and penalties commensurate with those categories would provide more consistency in the criminal statutory scheme; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE

CONCURRING, That the Legislative Commission is hereby directed to appoint a committee consisting of three members of the Assembly, two of whom are members of the Assembly Standing Committee on Judiciary and three members of the Senate, two of whom are members of the Senate Standing Committee on Judiciary, to conduct an interim study concerning misdemeanors; and be it further

RESOLVED, That the study must include, without limitation, an analysis of:

1. The existing statutes concerning misdemeanors to determine whether it is feasible to categorize misdemeanors and provide penalties commensurate with the categorization;

2. Whether it is beneficial to amend the Nevada Revised Statutes to categorize misdemeanors in such a manner;

3. The effect that categorizing misdemeanors in such a manner would have on the courts of this state, including, without limitation, any increase in the volume of cases handled by the courts and any necessary changes to the jurisdiction of the lower courts; and

4. Any other matter related to misdemeanors, as deemed necessary by the committee; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the committee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 72nd session of the Nevada Legislature.

APPENDIX B

Letter to Kathleen Brooks, Chairwoman, Committee on Domestic Violence,
regarding the Subcommittee's concerns with mandatory
treatment requirements for domestic violence

MARK MANENDO

ASSEMBLYMAN

District No. 18

ASSISTANT MAJORITY WHIP

COMMITTEES:

Vice Chairman

Judiciary

Member

Education

Health and Human Services



State of Nevada Assembly

Seventy-First Session

October 1, 2002

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Kathleen Brooks, Chairwoman
Committee on Domestic Violence
2915 West Charleston Boulevard, Suite 12
Las Vegas, Nevada 89102-1939

Dear Ms. Brooks:

The Nevada Legislative Commission's Subcommittee to Study Categories of Misdemeanors recently completed its work for the 2001-2002 legislative interim period. During this time, the Subcommittee heard testimony on various topics related to misdemeanors, including domestic violence.

At the Subcommittee's final meeting and work session on June 14, 2002, the members were informed that it is particularly difficult for people living in rural areas to comply with the mandatory treatment requirements due to distance and cost complications. In particular, the Subcommittee learned miners who work seven days on and seven days off have difficulty complying with the weekly meeting requirements.

On behalf of the Subcommittee and the judges who handle domestic violence cases in Nevada, we encourage the Committee on Domestic Violence to review the mandatory requirements and provide possible solutions to alleviating the distance and cost hardships placed on first-time domestic violence offenders in rural areas. Following are possible resolutions to this problem that were discussed by the Subcommittee, judges, and representatives of the Attorney General's Office:

- Allow judges the discretion to schedule the mandatory treatment with more flexibility in cases with first-time offenders in rural areas. For example, if a treatment facility is not within a specified number of miles from the offender, the judge can schedule meetings every two weeks rather than every week. This could potentially assist miners who work seven days on and seven days off.

Ms. Brooks
Page 2
October 1, 2002

- Require staff of certified treatment facilities to occasionally travel to rural areas as an alternative to offenders driving to the treatment facilities.

Thank you in advance for your consideration of this request. As the regulatory organization responsible for certifying domestic violence treatment programs, the Subcommittee hopes the Committee on Domestic Violence will be able to provide suggestions for improving the current treatment system. If you determine that legislation is necessary to implement changes, please contact me or any member of the Legislative Commission's Subcommittee to Study Categories of Misdemeanors (member list enclosed) for a bill draft request and a sponsor for the legislation.

In addition, enclosed is a copy of the Subcommittee's minutes involving discussion of this matter. Please do not hesitate to contact me if you have any questions or if I may be of assistance to you. You may also wish to contact the Subcommittee's staff, Michelle L. Van Geel, Senior Research Analyst, Legislative Counsel Bureau, at (775) 684-6825, if you have questions pertaining to the Legislative Commission's Subcommittee to Study Categories of Misdemeanors.

Sincerely,



Assemblyman Mark A. Manendo
Chairman, Subcommittee to Study
Categories of Misdemeanors

MAM/bbh:L09

Enc.

cc: Veronica Frenkel, Domestic Violence Ombudsman
Frederick Olmstead, Deputy Attorney General

APPENDIX C

Letter to Chairmen of the Assembly Committee on Ways and Means, the Senate Committee on Finance, and the Senate and Assembly Committees on Judiciary, with a copy to the sheriff and county commissioners of White Pine County, informing them of the problem of ex-prisoners sent to county jails to serve time for misdemeanor crimes committed in prison

MARK MANENDO

ASSEMBLYMAN

District No. 18

ASSISTANT MAJORITY WHIP

COMMITTEES:

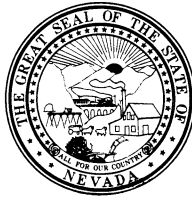
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State of Nevada Assembly

Seventy-First Session

December 4, 2002

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Senator William J. Raggio, Chairman
Senate Committee on Finance
P.O. Box 281
Reno, Nevada 89504-0281

Dear Senator Raggio:

The Nevada Legislative Commission's Subcommittee to Study Categories of Misdemeanors has completed its work for the 2001 legislative interim period. During the study, the Subcommittee heard testimony on various topics related to misdemeanors, including ex-prisoners serving time for misdemeanors in county jails.

In response to the Subcommittee's solicitation for recommendations concerning misdemeanors, Sheriff Bernie Romero of White Pine County proposed to make all crimes committed by prisoners in prison facilities a felony. He indicated his jail has problems when ex-prisoners are sent to his jail to serve time for crimes they committed in prison. For instance, if a prisoner commits a crime in prison and it is a misdemeanor or plea-bargained to a misdemeanor, the prisoner will go to jail to serve the misdemeanor sentence once the prison sentence is completed. Sheriff Romero indicated his jail is then full of "hardened criminals" who should be in prison, not jail.

The Subcommittee recognizes that problems may exist when "hardened criminals" are sent to jails where prisoners may be intermingled with less serious or violent offenders and security is naturally not as stringent as in prisons. Although concerned with this problematic situation, the Subcommittee was not interested in making crimes committed by prisoners in a prison facility a felony. The Subcommittee discussed keeping these prisoners in prison to serve their misdemeanor violations; however, this proposal could place an undue financial hardship on the state for having to house the prisoners longer than anticipated. We chose to inform you of this problem, as the Chairman of the Senate Committee on Finance.

Enclosed is a copy of the Subcommittee's minutes involving discussion of this matter. Please do not hesitate to contact me if you have any questions or if I may be of assistance to you. You may also wish to contact the Subcommittee's staff, Michelle L. Van Geel, Senior Research Analyst, Research Division, Legislative Counsel Bureau, at (775) 684-6825, if you have questions pertaining to the Legislative Commission's Subcommittee to Study Categories of Misdemeanors.

Sincerely,

A handwritten signature in black ink that reads "Mark Manendo". The signature is written in a cursive, flowing style.

Assemblyman Mark A. Manendo
Chairman, Subcommittee to Study
Categories of Misdemeanors

MAM/bbh:L10

Enc.

cc: Senator Mark E. Amodei
Assemblyman Bernie Anderson
Assemblyman Morse Arberry, Jr.
Bernie Romero, Sheriff, White Pine County
John A. Chachas, White Pine County Commissioner
Jack Norcross, White Pine County Commissioner
Cheryl Noriega, White Pine County Commissioner
Gary Perea, White Pine County Commissioner
Dave Provist, White Pine County Commissioner

APPENDIX D

Suggested Legislation

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SUMMARY—Provides increased penalty for certain repeat offenses involving vandalism.

(BDR 15-191)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State: Yes.

AN ACT relating to vandalism; providing an increased penalty for certain repeat offenses involving vandalism; and providing other matters properly relating thereto.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. ~~{Unless a greater criminal penalty is provided by a specific statute, a person who places}~~ *A person shall not vandalize, place* graffiti on , *deface* or otherwise ~~{defaces}~~ *damage* the public or private property, real or personal, of another, without the permission of the owner . ~~{is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed and in no event less than a misdemeanor.}~~

2. *Unless a greater criminal penalty is provided by a specific statute, a person who violates subsection 1:*

(a) For the first offense:

(1) Unless the provisions of subsection 3 apply, where the value of the loss is less than \$250, is guilty of a misdemeanor.

(2) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(3) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(b) For the second and each subsequent offense:

(1) Where the value of the loss is less than \$5,000, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

(2) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. Unless a greater penalty is provided in subsection 2, a person who commits a violation of subsection 1 involving protected property is guilty of a gross misdemeanor.

4. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, perform not less than 50 hours, but not more than 99 hours, of community service.

(b) For the second offense, perform not less than 100 hours, but not more than 199 hours, of community service.

(c) For the third and each subsequent offense, perform not less than 200 hours of community service.

FLUSH The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

~~13.1~~ **5.** The parent or legal guardian of a person under the age of 17 years who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~14.1~~ 6. If a person who is 18 years of age or older is found guilty of violating this section, the court may issue an order suspending the driver's license of the person for a period not to exceed 6 months in addition to any other penalty imposed. If such an order is issued, the court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court may issue an order prohibiting the person from applying for a driver's license within the 6 months immediately following the date of the order. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~15.1~~ 7. The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

~~16.1~~ 8. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to another statute for the same conduct.

9. As used in this section, "protected property" includes:

(a) Any church, synagogue, or other building, structure or place used for religious worship or other religious purpose;

(b) Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;

(c) Any school, educational facility or community center;

(d) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in paragraph (a), (b) or (c); or

(e) Any personal property contained in any institution, facility, building, structure or place described in paragraph (a), (b) or (c).

Sec. 2. NRS 206.340 is hereby amended to read as follows:

206.340 1. The Graffiti Reward Fund is hereby created in the State General Fund.

2. When a defendant pleads or is found guilty of violating NRS ~~206.125 or~~ 206.330, the court shall include an administrative assessment of \$250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Graffiti Reward Fund.

3. All money received pursuant to subsection 2 must be deposited with the State Controller for credit to the Graffiti Reward Fund. The money in the Fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates NRS ~~206.125 or~~ 206.330.

4. If sufficient money is available in the Graffiti Reward Fund, a state law enforcement agency may offer a reward, not to exceed \$1,000, for information leading to the identification, apprehension and conviction of a person who violates NRS ~~206.125 or~~ 206.330. The reward must be paid out of the Graffiti Reward Fund upon approval by the State Board of Examiners.

Sec. 3. NRS 62.226 is hereby amended to read as follows:

62.226 1. Except as otherwise provided in subsection 3, whenever a child is found to have committed the unlawful act of *vandalizing*, placing graffiti on , *defacing* or otherwise ~~defacing~~ *damaging* the public or private property, real or personal, of another, in violation of NRS

~~{206.125 or}~~ 206.330, the judge, or his authorized representative, may, if the child possesses a driver's license, issue an order suspending the driver's license of the child for at least 90 days but not more than 2 years. If such an order is issued, the judge shall require the child to surrender his driver's license to the court.

2. If the child does not possess a driver's license and the child is or will be eligible to receive a driver's license within the 2 years immediately following the date of the order, the judge, or his authorized representative, may issue an order prohibiting the child from applying for a driver's license for a period specified by the court which must be at least 90 days but not more than 2 years:

(a) Immediately following the date of the order, if the child is eligible to receive a driver's license.

(b) After the date the child will be eligible to receive a driver's license, if the child is not eligible to receive a license on the date of the order.

3. If a child is already the subject of a court order suspending or delaying the issuance of his driver's license, the court shall order the additional suspension or delay, as appropriate, to apply consecutively with the previous order.

Sec. 4. NRS 381.225 is hereby amended to read as follows:

381.225 1. ~~{It is unlawful for any person to commit vandalism upon}~~ *A person shall not vandalize, place graffiti on, deface or otherwise damage* any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity ~~. {, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.}~~

2. Unless a greater penalty is provided in NRS ~~206.125,~~ **206.330**, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

3. As used in this section, "graffiti" means any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn or painted on or affixed to the public or private property, real or personal, of another, which defaces the property.

Sec. 5. NRS 393.410 is hereby amended to read as follows:

393.410 1. It is unlawful for any person:

(a) Willfully and maliciously to injure, mark or deface any public schoolhouse, its fixtures, books or appurtenances;

(b) To commit any nuisance in any public schoolhouse;

(c) To loiter on or near the school grounds; or

(d) Purposely and maliciously to commit any trespass upon the grounds attached to a public schoolhouse, or any fixtures placed thereon, or any enclosure or sidewalk about the same.

2. ~~Except~~ ***Unless a greater penalty is provided in NRS 206.330 and except*** as otherwise provided in subsection 3, any person violating any of the provisions of this section is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed and in no event less than a misdemeanor.

3. Any person who is in possession of a dangerous weapon during his commission of a violation of paragraph (b), (c) or (d) of subsection 1 is guilty of a gross misdemeanor.

4. As used in this section:

(a) “Dangerous knife” means a knife having a blade that is 2 inches or more in length when measured from the tip of the knife which is customarily sharpened to the unsharpened extension of the blade which forms the hinge connecting the blade to the handle.

(b) “Dangerous weapon” means:

- (1) An explosive or incendiary device;
- (2) A dirk, dagger, switchblade knife or dangerous knife;
- (3) A nunchaku or trefoil;
- (4) A blackjack or billy club or metal knuckles; or
- (5) A pistol, revolver or other firearm.

(c) “Explosive or incendiary device” has the meaning ascribed to it in NRS 202.253.

(d) “Nunchaku” has the meaning ascribed to it in NRS 202.350.

(e) “Switchblade knife” has the meaning ascribed to it in NRS 202.350.

(f) “Trefoil” has the meaning ascribed to it in NRS 202.350.

Sec. 6. NRS 394.180 is hereby amended to read as follows:

394.180 1. It is unlawful for any person:

(a) Willfully and maliciously to injure, mark or deface any private schoolhouse, its fixtures, books or appurtenances;

(b) To commit any nuisance in any private schoolhouse;

(c) To loiter on or near the school grounds;

(d) Purposely and maliciously to commit any trespass upon the grounds attached to a private schoolhouse, or any fixtures placed thereon, or any enclosure or sidewalk about the same; or

(e) In any manner maliciously and purposely to interfere with or disturb any persons peaceably assembled within a private schoolhouse for school purposes.

2. Unless a greater penalty is provided ~~by NRS 206.125,~~ *in NRS 206.330*, any person violating any of the provisions of subsection 1 is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed and in no event less than a misdemeanor.

Sec. 7. NRS 452.305 is hereby amended to read as follows:

452.305 1. Unless a greater penalty is provided ~~by NRS 206.125,~~ *in NRS 206.330*, a person who:

(a) Willfully destroys, mutilates, defaces, injures or removes any tomb, monument, gravestone, building or other structure placed in any cemetery of any nonprofit corporation governed by the provisions of chapter 82 of NRS formed for the purpose of procuring and holding lands to be used exclusively for a cemetery or place of burial of the dead;

(b) Willfully destroys, mutilates, defaces, injures or removes any fence, railing or other work for the protection or ornament of any cemetery of any such nonprofit corporation, or any tomb, monument, gravestone, or any structure, plat or lot within the cemetery; or

(c) Willfully destroys, cuts, breaks or injures any tree, shrub or plant within the limits of any cemetery of such nonprofit corporation,
is guilty of a misdemeanor.

FLUSH

2. An offender is also liable in an action of trespass to be brought in all cases in the name of the nonprofit corporation, to pay all damages which are occasioned by his unlawful act or acts. Any money recovered must be applied by the trustees to the reparation or restoration of the property which was destroyed or injured.

Sec. 8. NRS 206.125 is hereby repealed.

Sec. 9. The amendatory provisions of this act apply to offenses committed before October 1, 2003, for the purpose of determining whether a person is subject to the provisions of paragraph (b) of subsection 2 of NRS 206.330, as amended by section 1 of this act.

TEXT OF REPEALED SECTION

206.125 Damage of property used for religious or educational purposes, for burial or memorializing dead or as community center; damage of property contained therein.

Unless a greater penalty is provided by law, a person who knowingly vandalizes, places graffiti on, defaces or otherwise damages:

1. Any church, synagogue or other building, structure or place used for religious worship or other religious purpose;
 2. Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;
 3. Any school, educational facility or community center;
 4. The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in subsection 1, 2 or 3; or
 5. Any personal property contained in any institution, facility, building, structure or place described in subsection 1, 2 or 3,
- is guilty of a gross misdemeanor.

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SUMMARY—Repeals various crimes. (BDR 15-190)

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

AN ACT relating to crimes; repealing the prohibition against a person refusing to relinquish a party line for an emergency call or securing the use of a party line by falsely stating that it is needed for an emergency call; repealing the prohibition against a person pasturing livestock in a cemetery; repealing the prohibition against a person shearing sheep within a city or town; and providing other matters properly relating thereto.

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

Section 10. NRS 207.161 is hereby amended to read as follows:

207.161 As used in NRS 207.163:

1. “Emergency call” means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

2. ~~“Party line” means a subscribers’ line telephone circuit, consisting of two or more main telephone stations connected therewith, each station having a distinctive ring or telephone number.~~

~~3.]~~ “Public telephone” means a telephone which is made available to the public upon the deposit of a coin.

Sec. 11. NRS 207.163 is hereby amended to read as follows:

207.163 1. ~~It is unlawful for a person to refuse to relinquish a party line immediately when he has been informed that the line is needed for an emergency call and in fact the line is needed for an emergency call.~~

~~2.]~~ It is unlawful for a person to refuse to relinquish a public telephone immediately when he has been informed that it is needed for an emergency call and in fact the line is needed

for an emergency call and there is no other reasonably apparent and immediately accessible telephone from which to make the call.

~~3.~~ ^{2.} It is unlawful for a person to secure the use of a ~~{party line or}~~ public telephone by falsely stating that it is needed for an emergency call.

Sec. 12. NRS 452.001 is hereby amended to read as follows:

452.001 The provisions of NRS 452.001 to 452.610, inclusive:

1. Except NRS 452.002, 452.030 ~~{, 452.290}~~ and 452.300, do not apply to a person maintaining a cemetery but not operating as a cemetery authority on July 5, 1971.
2. Do not apply to cemeteries containing the remains of pets only.

Sec. 13. NRS 452.290 and 575.030 are hereby repealed.

TEXT OF REPEALED SECTIONS

452.290 Pasturing livestock in cemetery unlawful; penalty. Any person who shall pasture or cause to be pastured any livestock of any description within an enclosed private or public cemetery is guilty of a misdemeanor.

575.030 Shearing sheep within city or town.

1. It shall be unlawful for any sheep to be penned, housed or fed for the purpose of being sheared, or to be sheared, within the ordinary limits of any city or town of this state during any period of the year. This shall not apply to any place not within one-half mile of a residence.
2. Any person, corporation or agent, being the owner of or having control or charge of any sheep, who shall willfully violate any of the provisions of this section shall be guilty of a misdemeanor.

SUMMARY—Repeals prohibition against cosmetological establishment engaging in certain practices. (BDR 54-189)

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

AN ACT relating to cosmetology; repealing the prohibition against a cosmetological establishment engaging primarily in the business of cutting men's hair or representing to the public that it primarily engages in the business of cutting men's hair; and providing other matters properly relating thereto.

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

Section 14. NRS 644.473 is hereby repealed.

TEXT OF REPEALED SECTION

644.473 Unlawful acts relating to cutting of men's hair. It is unlawful for any licensed cosmetological establishment:

1. To engage primarily in the business of cutting men's hair; or
2. To represent itself to the public as primarily engaged in the business of cutting men's hair.

BDR 54-188

**Revises provisions pertaining to responsibility for
prosecution of certain crimes**

Note: BDR 54-188 will be available at the beginning of the 2003 Legislative Session