

THE SIXTIETH DAY

CARSON CITY (Thursday), April 2, 2009

Assembly called to order at 11:16 a.m.

Mr. Speaker pro Tempore presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Dave Goodale.

Almighty Father, we thank You for the men and women who give their best in thought and work for the building and governing our state. Grant that we may continue always to work in harmony together and to benefit from the richness and variety of all contributions to our greatness. Guide us this day, we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 266, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Assembly Bill No. 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Ways and Means.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Assembly Bill No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 3, 193, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Concurrent Committee on Health and Human Services, to which was referred Assembly Bill No. 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 194, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 510 be rereferred to the Committee on Ways and Means.

Motion carried.

COMMUNICATIONS

STATE OF NEVADA
SENATE

April 1, 2009

SPEAKER BARBARA E. BUCKLEY, Nevada State Assembly, Carson City, NV 89701-4747

DEAR SPEAKER BUCKLEY,

Senator Horsford is requesting the consent of the Assembly, in conformance with Section 15 of Article 4 of the Constitution of the State of Nevada, to adjourn the Senate's floor session from Wednesday, April 8, 2009, until Monday, April 13, 2009, at 11 a.m. This period of adjournment will allow our Standing Committees adequate time to hear all Senate measures before the next legislative deadline for Committee Bill Passage on April 10, 2009.

In order to accommodate your busy schedule, please note your decision on this request for our records.

Thank you so much for your consideration,

Sincerely,
CLAIRE J. CLIFT
Secretary of the Senate

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 1, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolutions Nos. 21, 22, 23, 24, 25, 26.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 6.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Mr. Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:24 a.m.

ASSEMBLY IN SESSION

At 11:25 a.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Assemblymen Denis, Smith, Parnell, Mastroluca, Aizley, Anderson, Arberry, Atkinson, Bobzien, Buckley, Carpenter, Christensen, Claborn, Cobb, Conklin, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, McArthur, McClain, Mortenson, Munford, Ocegüera, Ohrenschall, Pierce, Segerblom, Sattelmeyer, Spiegel, Stewart and Woodbury; Senators Amodei, Breeden, Care, Carlton, Cegavske, Coffin, Copening, Hardy, Horsford, Lee, Mathews, McGinness, Nolan, Parks, Raggio, Rhoads, Schneider, Townsend, Washington, Wiener and Woodhouse:

Assembly Concurrent Resolution No. 27—Honoring the Nevada Parent Teacher Association for its dedicated service in Nevada.

WHEREAS, The Nevada Parent Teacher Association was founded in 1940 and serves our State as the largest volunteer advocacy group for children, families and teachers, placing emphasis on promoting active family involvement in the schools throughout our State; and

WHEREAS, The membership of the Nevada PTA is open to everyone and is as inclusive and diverse as the children for whom the members advocate, with representation from different economic, ethnic, religious, political and cultural backgrounds; and

WHEREAS, The organizational scheme of the Nevada PTA begins with volunteers who form local units that may join together to form councils, which compose PTA regions, and membership in the statewide unit, the Battle Born PTA, is open to everyone; and

WHEREAS, Each higher tier of the organization provides support for the groups of which it is composed, with the councils providing training, support, materials and expertise to the local units, the regions establishing close working relationships with councils and units to furnish service, training and networking opportunities, and the state level assisting in whatever way it is needed to achieve *onevoice* for *everychild*; and

WHEREAS, The mission of the Nevada PTA is threefold, first, to support and speak on behalf of children in our schools, in the community and before governmental bodies and organizations that make decisions affecting them, second, to assist parents in developing the skills they need to raise and protect their children, and third, to encourage parent and public involvement with the teachers of our schools, all at no cost to the State; and

WHEREAS, Throughout the 68 years since its inception, the Nevada PTA has contributed money needed to foster education in Nevada and has served our State through a multitude of programs, such as the Carry the Card program by which businesses offer discounts to PTA members, a website for booking vacations with discounted prices, contests for promotion of the arts, training programs for parents that encourage partnership with teachers and community members to build the future together, leadership programs and myriad other projects to foster the well-being of the young people in this State; and

WHEREAS, To achieve one of the most significant objectives of the Nevada PTA, the advocacy of legislation that enhances the health, education and welfare of our children, the Nevada PTA outlines positions, brings them to the forefront during legislative sessions and encourages the commitment to a quality education for all children; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the Nevada Legislature honor the Nevada Parent Teacher

Association for the dedicated service of its volunteers and express profound gratitude for the contributions they make to Nevada's children, parents and teachers.

Assemblyman Denis moved the adoption of the resolution.

Remarks by Assemblymen Denis, Smith, Mastroluca, Christensen, Parnell, Anderson, and Hambrick.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. I rise in support of ACR 27. We had a discussion a couple of days ago about some immigrants in the 1890s—two women from Washington, D.C., Freebie A. Hurst and Alice M. Burney. They were greatly concerned about the nation's children. The United States was feeling the enormous impact of the Industrial Revolution, and an immense wave of immigration was flowing into the country. Children worked in factories, in mines, and in the streets of the cities. Some could not attend school or obtain enough food to eat. What could be done? They decided that the children of America needed a voice. They sent out a call to action and anticipated that maybe 200 mothers would respond. However, on February 17, 1897, more than 2,000 mothers, fathers, teachers, workers, and politicians gathered for the very first PTA meeting.

After setting bylaws and marking out areas that needed to be addressed, the group began its quest for children's safety, health, and productive futures. By the early 1900s, the PTA had grown in numbers and in strength. Their hard work and perseverance led to the creation of kindergarten classes, juvenile justice systems, and child labor laws. Other things that the founders helped create and get done throughout the years have been the hot lunch program, public health programs, mandatory immunizations for school, physical education classes in public schools, sex education for preteens, and increased wages for teachers. The television content ratings you see on the television today are things that the PTA has advocated for.

In 1940, concerned parents in Nevada created the Nevada PTA. It has continued to function so that today, it is the largest and oldest child advocacy group in Nevada. The Nevada PTA is beginning its seventieth year of advocating for Nevada's children. For almost 70 years, the Nevada PTA has promoted the education, health, and safety of children, youth, and families. They have advocated for education and health all of these years.

As the challenges have changed, the Nevada PTA has also evolved. Today the Nevada PTA continues its fight for children. PTA members help parents learn skills that they need to raise happy, confident children. There are local PTA programs in every level of the public school system, including elementary schools, middle schools, high schools, as well as special education schools and programs, and all of them work tirelessly to bring the home and school closer together so that parents can take an active role in their children's education and future. In addition, many of Nevada's leaders have been trained by Nevada PTA. It is with great honor that I bring the resolution before you today, and I urge your support of the resolution.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of ACR 27. I could not support this resolution more. It may make some of my colleagues change their minds about supporting it when I say that I probably wouldn't be here if it wasn't for the PTA. It is really the truth. I started out as a mom of a kindergartener that went to a meeting one day, and you know how it goes—the next thing I knew I was the treasurer.

I have been involved with this organization for 20 years and have served on the National Board and actually was involved with writing the parent involvement book that the National PTA wrote. I have learned so much. I have watched so many of my friends and colleagues, many in this house, have amazing opportunities for leadership development and learn about the many issues that affect our children, both in school and in our communities. Education policy is hard to learn and ever evolving, and this organization does such an amazing job of teaching its advocates and volunteers. I am so honored to be a lifetime member of the organization and urge my colleagues to support the resolution. Thank you.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Speaker. I rise in support of ACR 27. My story is very similar to that of my colleague from the north—the only difference is I wasn't smart enough to say, "No, thank you!" when they asked me to be president at the first meeting. So the first meeting I ever went to was the meeting I chaired as president. I just kind of got sucked in after that and moved up in to the Nevada PTA Board. It was a wonderful experience and has been a life-changing experience for me. I, too, would not be standing here today if it wasn't for the experience I had in being part of this organization that has made such a positive impact on so many people's lives—not just the people that you see, not just the people who are visible in the community, but on the children—that is really what it is about. This organization makes an impact on the lives of every single child, whether that child belongs to PTA or whether that child goes to a school that has a PTA. They still care about every single child. I am so proud to be a part of such a wonderful organization.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I rise in support of ACR 27. I really appreciate the remarks from my colleagues who spoke before me. In this day and age, in this state and here in this building, we work so hard to see our children achieve and to do well and to see academic excellence. I have, from the committees that I have been able to serve on, related to education in the last few years. It has become my firm opinion that the best way to get there is to evaluate policy and to do everything we can to help education. It is parents caring, getting involved, volunteering, and going to those meetings and getting sucked into serving.

I will have to give my wife a heads up; she is engaged in the PTA in our school. I think it is great that you are all here today—those parents who are there serving and this organization being put together with that mission in mind—and I support the resolution. I appreciate the opportunity to speak.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Speaker. I rise to support ACR 27. I joined the PTA Board of Directors 30 years ago. I would have to say that probably today, more than ever, we need you. We need parent involvement. Parent involvement is something that crosses party lines. It is not geographic. We all need to come together and to continue to do what is best, not only for your children, but for all the children. I just stand to thank you for all that you do.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I, too, rise in support of ACR 27. As we heard in the resolution, it has been an evolutionary organization. When I look at the changes that have taken place in education, I see at the forefront of every one of those fights, whether it was bringing new technology into the modern age or expanding for physical education programs, the PTA. The continual activity of the PTA extends way beyond just "my child" and that little time period when they are in the educational institution. The PTA has left a lasting mark. It has raised the boat of education for all, evolving from an elite group to one that broadened to every level of our society without that requirement of "my child has to be included." Every child, every day, is the most important—the parent brings that focus. When the child knows that the parent is involved, they are also involved. That communication line is open. The PTA provides that, and therefore, the PTA is absolutely essential. Their hard work can't be complimented enough.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I rise in support of the resolution. Like my colleague from District 29, I was not smart enough to say no. I left the room and came back in and was president of the PTA.

It is a good day to recognize them because April is Child Abuse Awareness Month. The PTA I was involved with in Dumfries, Virginia, was focused on that for almost a year and brought this issue to the forefront in suburban D.C. and in northern Virginia. Without the PTA in that area, untold harm would have been done to our youngsters. They brought this issue countywide. I will never forget that. I have been involved in other youth issues, but the PTA was the start of my involvement. I am very, very grateful.

Resolution adopted.

Assemblyman Denis moved that all rules be suspended and that Assembly Concurrent Resolution No. 27 be immediately transmitted to the Senate.

Motion carried unanimously.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:40 a.m.

ASSEMBLY IN SESSION

At 11:42 a.m.

Madam Speaker presiding.

Quorum present.

Senate Concurrent Resolution No. 6.

Assemblyman Conklin moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

NOTICE OF EXEMPTION

April 1, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 255, 289, 293 and 355.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Ocegüera moved that in conformance with Section 15, Article IV of the Constitution of the State of Nevada, the Assembly consent to the adjournment of the Senate from Wednesday, April 8, 2009, until Monday, April 13, 2009.

Motion carried.

Assemblyman Ocegüera moved that the reading of histories of all bills and resolutions be dispensed with for this legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 528—AN ACT relating to the Department of Cultural Affairs; eliminating the requirement that the State Library and Archives be open to the public during certain days and hours; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 529—AN ACT relating to state financial administration; revising provisions governing certain accounts administered by the State Department of Agriculture; providing that the interest and income earned on certain such accounts, after deducting any applicable charges, must be credited to those accounts; providing that the money in certain such accounts does not revert to the State General Fund at the end of any fiscal year; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 530—AN ACT relating to education; providing for the reversion of money in the Account for Programs for Innovation and the Prevention of Remediation to the State General Fund; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 531—AN ACT relating to administrative assessments; revising provisions governing the distribution of the proceeds of certain administrative assessments; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 532—AN ACT relating to higher education; requiring the Nevada System of Higher Education to provide administrative support to the Nevada State Commissioners of the Western Interstate Commission for Higher Education; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 533—AN ACT making a supplemental appropriation to the State Distributive School Account for unanticipated shortfalls in Fiscal Year 2008-2009 in certain tax revenue; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 534—AN ACT making a supplemental appropriation to the Office for Consumer Health Assistance in the Office of the Governor for unanticipated shortfalls in Fiscal Year 2008-2009 for the Bureau for Hospital Patients; and providing other matters properly relating thereto.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 10.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 56.

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing.

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than \$10,000 for each such act of retaliation or discrimination.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~};~~ **or**

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~is~~:

(1) **In** accordance with the policy, if any, established by the medical facility:

~~{(1)}~~ (I) Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~{(2)}~~ (II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or

experience to comply with the assignment to provide nursing services to the patient, unless ~~such~~ the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[-]~~;

(2) Reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements;
or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, **any of** the following ~~action if such action is~~ **actions if** taken solely because the employee, ~~for the~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

- (I) Frequent or undesirable changes in the location where the ~~employee~~ **person** works;
- (II) Frequent or undesirable transfers or reassignments;
- (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;
- (IV) A demotion;
- (V) A reduction in pay;
- (VI) The denial of a promotion;
- (VII) A suspension;
- (VIII) A dismissal;
- (IX) A transfer; or
- (X) Frequent changes in working hours or workdays.

(2) Does not include **an** action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 **1.** An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility **and** who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction. ~~for such relief as may be appropriate under the law.~~

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

- (a) *Compensatory damages;*
- (b) *Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;*
- (c) *Attorney's fees and costs, including, without limitation, fees for expert witnesses; and*
- (d) *Punitive damages, if the facts warrant.*

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action ~~described in subparagraph (1) of paragraph (b) of subsection 4 of NRS 449.205~~ to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing

assistant constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~an~~ :

(a) *An* employee of the physician or a person acting on behalf of the employee who in good faith:

~~{(a)}~~ (I) Reports to the Board of *Medical Examiners* information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~{(b)}~~ or

(2) Reports a sentinel event to the Health Division of the *Department of Health and Human Services* pursuant to NRS 439.835;

(b) *A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:*

(I) *Reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:*

(I) *Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;*

(II) *Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements;*
or

(III) *Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or*

(2) *Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect*

patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~Cooperates~~ *An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates* or otherwise participates in an investigation or proceeding conducted by the Board of *Medical Examiners* or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician* because the employee, *registered nurse, licensed practical nurse or nursing assistant* has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician* to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) Includes, without limitation, *any of* the following ~~action if such action is~~ *actions if* taken solely because the employee, *registered nurse, licensed practical nurse or nursing assistant* took an action described in subsection 1:

- (1) Frequent or undesirable changes in the location where the ~~employee~~ *person* works;
- (2) Frequent or undesirable transfers or reassignments;
- (3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;
- (4) A demotion;
- (5) A reduction in pay;
- (6) The denial of a promotion;
- (7) A suspension;
- (8) A dismissal;
- (9) A transfer; or
- (10) Frequent changes in working hours or workdays.

(b) Does not include *an* action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 *1. An employee of a physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction . [for such relief as may be appropriate.]*

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action ~~described in paragraph (a) of subsection 4 of NRS 630.293~~ to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 *1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~an~~ :*

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ (1) Reports to the *State Board of Osteopathic Medicine* information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ or

(2) Reports a sentinel event to the Health Division *of the Department of Health and Human Services* pursuant to NRS 439.835;

(b) *A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:*

(1) *Reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:*

(I) *Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;*

(II) *Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or*

(III) *Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or*

(2) *Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or*

(c) ~~[(Cooperates)]~~ *An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in paragraph (a) or (b).*

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* because the employee, *registered nurse, licensed*

practical nurse or nursing assistant has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) Includes, without limitation, *any of* the following ~~actions if such action is~~ *actions if* taken solely because the employee, *registered nurse, licensed practical nurse or nursing assistant* took an action described in subsection 1:

- (1) Frequent or undesirable changes in the location where the ~~employee~~ *person* works;
- (2) Frequent or undesirable transfers or reassignments;
- (3) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;
- (4) A demotion;
- (5) A reduction in pay;
- (6) The denial of a promotion;
- (7) A suspension;
- (8) A dismissal;
- (9) A transfer; or
- (10) Frequent changes in working hours or workdays.

(b) Does not include *an* action described in subparagraphs (1) to (10), inclusive, of paragraph (a) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 *1.* An employee of an osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and* who believes that he has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction. ~~For such relief as may be appropriate under the law.~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

- (a) Compensatory damages;*
- (b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;*
- (c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and*
- (d) Punitive damages, if the facts warrant.*

3. *The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.*

4. *The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.*

5. *If any action ~~described in paragraph (a) of subsection 4 of NRS 633.505~~ to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.*

6. *An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

7. *Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.*

8. *As used in this section, “retaliate or discriminate” has the meaning ascribed to it in NRS 633.505.*

Sec. 7. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

The following amendment was proposed by Assemblyman Hardy:

Amendment No. 104.

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports in good faith information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another

governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports in good faith certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. **Sections 1, 3 and 5 also add a definition of “good faith” for purposes of the reporting.**

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney’s fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than \$10,000 for each such act of retaliation or discrimination.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of

Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~[-]~~; *or*

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~[-in]~~:

(1) *In* accordance with the policy, if any, established by the medical facility:

~~[(1)]~~ (I) Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~[(2)]~~ (II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless ~~such~~ *the* refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[-]~~;

(2) *Reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:*

(I) *Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;*

(II) *Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements;*
or

(III) *Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or*

(3) *Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.*

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) *An employee or other person makes a report in "good faith" pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.*

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

~~(c)~~ (c) "Retaliate or discriminate":

(1) Includes, without limitation, *any of* the following ~~action if such action is~~ *actions if* taken solely because the employee, ~~for the~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~employee~~ *person* works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include *an* action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 *I.* An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility *and* who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction. ~~For such relief as may be appropriate under the law.~~

2. *If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:*

- (a) Compensatory damages;*
- (b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;*
- (c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and*
- (d) Punitive damages, if the facts warrant.*

3. *The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.*

4. *The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.*

5. *If any action described in subparagraph (1) of paragraph ~~((b))~~ (c) of subsection 4 of NRS 449.205 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 449.205.*

6. *A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

7. *Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.*

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~an~~ :

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ *(1) Reports to the Board of Medical Examiners information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;*

~~[(b)]~~ *or*

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:

(1) Reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~Cooperates~~ An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician* because the employee, *registered nurse, licensed practical nurse or nursing assistant* has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician* to take an action described in subsection 1.

4. As used in this section, ~~“retaliate or discriminate”;~~

(a) *An employee or other person makes a report in “good faith” pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.*

(b) “Retaliate or discriminate”:

(1) Includes, without limitation, *any of* the following ~~action if such action is~~ *actions if* taken solely because the employee, *registered nurse, licensed practical nurse or nursing assistant* took an action described in subsection 1:

~~[(1)]~~ *(I)* Frequent or undesirable changes in the location where the ~~employee~~ *person* works;

~~[(2)]~~ *(II)* Frequent or undesirable transfers or reassignments;

~~[(3)]~~ *(III)* The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ *(IV)* A demotion;

~~[(5)]~~ *(V)* A reduction in pay;

~~[(6)]~~ *(VI)* The denial of a promotion;

~~[(7)]~~ *(VII)* A suspension;

~~[(8)]~~ *(VIII)* A dismissal;

~~[(9)]~~ *(IX)* A transfer; or

~~[(10)]~~ *(X)* Frequent changes in working hours or workdays.

~~[(b)]~~ *(2)* Does not include *an* action described in ~~subparagraphs (1)]~~ *sub-subparagraphs (I) to [(10)] (X), inclusive, of [paragraph (a)] subparagraph (I) if the action is taken in the normal course of employment or as a form of discipline.*

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 *1. An employee of a physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction . [for such relief as may be appropriate.]*

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney’s fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. *The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.*

4. *The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.*

5. *If any action described in paragraph ~~((a))~~ (b) of subsection 4 of NRS 630.293 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 630.293.*

6. *A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

7. *Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.*

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~fan~~ :

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ *(1) Reports to the State Board of Osteopathic Medicine information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;*

~~[(b)]~~ *or*

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) Reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any

provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~Cooperates~~ An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* because the employee, *registered nurse, licensed practical nurse or nursing assistant* has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* to take an action described in subsection 1.

4. As used in this section : ~~["retaliate or discriminate"]~~

(a) An employee or other person makes a report in "good faith" pursuant to this section if he provides the information or report of improper activity with a reasonable basis in fact for reporting or providing the information. An employee or other person who knowingly provides or reports, or who reasonably ought to know he is providing or reporting, malicious, false or frivolous information, or information that is provided in reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.

(b) "Retaliate or discriminate":

~~(1)~~ (1) Includes, without limitation, *any of* the following ~~action if such action is~~ **actions if** taken solely because the employee, **registered nurse, licensed practical nurse or nursing assistant** took an action described in subsection 1:

~~(1)~~ (I) Frequent or undesirable changes in the location where the ~~employee~~ **person** works;

~~(2)~~ (II) Frequent or undesirable transfers or reassignments;

~~(3)~~ (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~(4)~~ (IV) A demotion;

~~(5)~~ (V) A reduction in pay;

~~(6)~~ (VI) The denial of a promotion;

~~(7)~~ (VII) A suspension;

~~(8)~~ (VIII) A dismissal;

~~(9)~~ (IX) A transfer; or

~~(10)~~ (X) Frequent changes in working hours or workdays.

~~(b)~~ (2) Does not include **an** action described in ~~subparagraphs (1)~~ **sub-subparagraphs (I) to (X)**, inclusive, of ~~paragraph (a)~~ **subparagraph (I)** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 **1.** An employee of an osteopathic physician **or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and** who believes that he has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction. ~~For such relief as may be appropriate under the law.~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. *If any action described in paragraph ~~((a))~~ (b) of subsection 4 of NRS 633.505 is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.*

6. *An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

7. *Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.*

Sec. 7. This act becomes effective on July 1, 2009.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:48 a.m.

ASSEMBLY IN SESSION

At 11:51 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Hardy withdrew the motion whereby Amendment No. 104 to Assembly Bill No. 10 was submitted for adoption.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that upon return from the printer, Assembly Bill No. 10 be placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 16.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 86.

AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain

notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires each employer of emergency response employees in this State to designate ~~and~~ **at least one** employee to serve as ~~the~~ **a** designated officer to act on behalf of its emergency response employees with regard to their possible exposure to infectious diseases.

Section 7 of this bill requires a medical facility to notify ~~the~~ **a** designated officer of an emergency response employee who transported a victim of an emergency who the medical facility determines has an airborne infectious disease. **Section 8** of this bill authorizes an emergency response employee to request that his designated officer make an initial determination of the employee's possible exposure to an infectious disease. **Section 9** of this bill requires a medical facility to respond to a request from a designated officer of an emergency response employee regarding whether the employee may have been exposed to an infectious disease once the medical facility makes such a determination. **Section 10** of this bill provides that if information was insufficient for a medical facility to determine whether an emergency response employee was exposed to an infectious disease, the health officer in whose jurisdiction the medical facility is located shall evaluate the request and the response of the medical facility. **Section 11** of this bill requires a designated officer to notify each emergency response employee who responded to an emergency and may have been exposed to an infectious disease of the determination of the medical facility. **Section 12** of this bill provides limitations on the liability of a medical facility or designated officer and clarifies that the provisions of this bill do not authorize an emergency response employee to fail to respond or deny services to a victim of an emergency. **Section 12** further provides that this bill does not authorize or require a medical facility to test any victim of an emergency for the presence of an infectious disease and does not authorize or require certain persons to disclose the identity of such a victim or an emergency response employee.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *"Designated officer" means a person designated by an employer to serve as ~~the~~ a designated officer for its emergency response employees pursuant to section 6 of this act.*

Sec. 3. *"Emergency response employee" means a firefighter, attendant, volunteer attendant, emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician or other person who, in the course of his professional duties, responds to emergencies in this State.*

Sec. 4. *“Exposed” or “exposure” means any circumstances which create a significant risk of a person becoming infected with an infectious disease.*

Sec. 5. *“Infectious disease” means a disease caused by a living organism or other pathogen, including, without limitation, a fungus, bacillus, parasite, protozoan or virus.*

Sec. 6. *Each employer of emergency response employees in this State shall designate ~~him~~ at least one employee to serve as ~~the~~ a designated officer to receive notifications and responses and make requests on behalf of its emergency response employees pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 7. 1. *Except as otherwise provided in NRS 441A.195, if a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility determines that the victim has an airborne infectious disease, the medical facility shall notify ~~the~~ a designated officer of the emergency response employees of that determination.*

2. *If a victim of an emergency is transported by emergency response employees to a medical facility, the victim dies at or before reaching the medical facility and the medical facility determines the cause of death of the victim, the medical facility shall notify ~~the~~ a designated officer of the emergency response employees of any determination by the medical facility that the victim had an airborne infectious disease.*

3. *The medical facility to which the victim is transported shall cause the notification required by subsection 1 or 2 to be made as soon as practicable, but not later than 48 hours after the determination is made.*

4. *The notification must include, without limitation:*

(a) *The name of the airborne infectious disease to which the emergency response employees may have been exposed; and*

(b) *The date on which the victim of the emergency was transported by the emergency response employees to the medical facility.*

5. *As used in this section, “airborne infectious disease” means an infectious disease transmitted from person to person by an aerosol, including, without limitation, tuberculosis.*

Sec. 8. 1. *Except as otherwise provided in NRS 441A.195, if an emergency response employee believes that he may have been exposed to an infectious disease by a victim of an emergency who was transported, attended, treated or assisted by the emergency response employee, ~~the~~ a designated officer of the employee shall, upon the request of the employee, make an initial determination of the possible exposure of the employee to an infectious disease by:*

(a) *Collecting the facts relating to the circumstances under which the employee may have been exposed to an infectious disease; and*

(b) Evaluating the facts to determine whether the victim had an infectious disease and whether the employee may have been exposed to the disease.

2. If ~~the~~ a designated officer determines that ~~the~~ an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim was transported a written request for a response.

Sec. 9. 1. If a medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall, as soon as practicable but not later than 48 hours after receiving the request, evaluate the facts submitted in the request and determine whether the emergency response employee was exposed to an infectious disease.

2. If the medical facility determines that the emergency response employee may have been exposed or was not exposed to an infectious disease or that insufficient information exists for it to make a determination, the medical facility shall notify, in writing, the designated officer who submitted the request.

3. If a victim dies at or before reaching the medical facility and the medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall provide a copy of the request to any other medical facility that is ascertaining the cause of death of the victim.

Sec. 10. 1. If a designated officer receives a notice from a medical facility pursuant to subsection 2 of section 9 of this act that insufficient information exists for the medical facility to make a determination of whether an emergency response employee was exposed to an infectious disease, the designated officer may submit a request for further evaluation to the health officer in whose jurisdiction the medical facility is located. A request submitted pursuant to this subsection must include the original request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act.

2. If a health officer receives a request for further evaluation pursuant to subsection 1, the health officer shall evaluate the request and the request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act. An evaluation conducted pursuant to this subsection must be completed as soon as practicable but not later than 48 hours after the request for further evaluation is received.

3. If an evaluation conducted pursuant to subsection 2 indicates that the facts provided to the medical facility were:

(a) Sufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall, on behalf of the designated officer, resubmit the request to the medical facility; or

(b) Insufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall advise the

designated officer in writing regarding the collection and description of additional facts for further evaluation by the medical facility pursuant to section 9 of this act.

Sec. 11. *1. If a designated officer receives a notice from a medical facility pursuant to section 9 of this act that an emergency response employee may have been exposed to an infectious disease, the designated officer shall, as soon as is practicable after receiving the notice, notify each emergency response employee who responded to the emergency and may have been exposed to an infectious disease.*

2. The notification must include, without limitation:

(a) A statement indicating that the emergency response employee may have been exposed to an infectious disease;

(b) The name of the infectious disease;

(c) The date on which the victim of the emergency was transported by the emergency response employee to the medical facility; and

(d) Any action that is medically appropriate for the emergency response employee to take.

Sec. 12. *The provisions of sections 2 to 12, inclusive, of this act must not be construed to:*

1. Authorize any cause of action for damages or any civil penalty against a medical facility or designated officer that fails to comply with any requirement of those provisions.

2. Require or authorize a medical facility to test a victim of an emergency for the presence of an infectious disease.

3. Require or authorize a medical facility, designated officer or emergency response employee to disclose the identity of or identifying information about a victim of an emergency or an emergency response employee.

4. Authorize an emergency response employee to fail to respond or deny services to a victim of an emergency.

Sec. 13. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 21.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 71.

AN ACT relating to motor vehicle insurance; revising provisions governing the verification of motor vehicle liability insurance policies by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every owner of a motor vehicle which is registered or required to be registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle. (NRS 485.185) Existing law provides that an owner of certain motor vehicles who provides proof of liability insurance provided by an insurance company that is not approved to do business in this State may register the motor vehicle and have 7 calendar days to provide proof of liability by an insurance company that is licensed and approved to do business in this State. (NRS 482.215) Section 1.5 of this bill removes the provision allowing an owner 7 calendar days to provide proof of liability insurance by an insurance company that is licensed and approved to do business in this State. Existing law further provides that the owner of a fleet of motor vehicles and certain other motor vehicles must provide evidence of liability insurance on a form that is satisfactory to the Department. (NRS 482.215) Section 1.5 specifies that such liability insurance must be provided by an insurance company licensed and approved to do business in this State. Existing law requires the Department of Motor Vehicles to create a system to verify that owners of motor vehicles, other than golf carts and larger motortrucks, truck tractors and buses, maintain the required liability insurance. (NRS 485.130, 485.313) **Section 3** of this bill adds provisions: (1) requiring the Department to work in cooperation with insurers to develop the system; (2) requiring that the verification be conducted through the secure transmission and receipt of information necessary to verify that owners of motor vehicles maintain the required liability insurance; (3) authorizing the Department to contract with any person to provide services relating to the system; and (4) making the system applicable to all motortrucks, truck tractors and buses.

Section 4 of this bill deletes provisions of existing law that prescribe the specific form and content of the records of motor vehicle liability policies which insurers must provide to the Department. (NRS 485.314) ~~{Sections 2 and 6 of this bill delete existing provisions which authorize the reinstatement of the registration of a motor vehicle if the owner establishes that his failure to have the required insurance was due to extenuating circumstances. (NRS 482.480, 485.317)}~~

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a

file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the ~~database~~ **system** created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that ~~database~~ **system**.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 1.5. NRS 482.215 is hereby amended to read as follows:

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle ~~[, and if the insurance is not]~~ provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185 ~~; [, the applicant must meet the requirements of NRS 485.185 within 7 calendar days.]~~ and

(2) A declaration signed by the applicant that he will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance ~~is~~ **provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:**

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle ~~; and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185;~~ or

(3) In another form satisfactory to the Department.

↪ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 2. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all ~~of~~ the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~9~~ 7 of NRS 485.317, to ~~to~~ reinstate the registration of a motor vehicle *that is* suspended pursuant to that section; ~~NRS 485.317;~~

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified ~~[in the form for verification that was mailed]~~ by the Department; ~~[pursuant to subsection 3 of NRS 485.317;]~~ or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

↪ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 3. NRS 485.313 is hereby amended to read as follows:

485.313 1. The Department ~~shall~~:

- (a) **Shall, in cooperation with insurers,** create a system for verifying **through the secure transmission and receipt of information** that the owners of motor vehicles maintain the insurance required by NRS 485.185 ~~[-]~~; **and**
 (b) **May enter into a contract with any person to provide services relating to the system.**

2. As used in this section, “motor vehicle” does not include ~~[-~~

~~(a) A] a golf cart as that term is defined in NRS 482.044.~~

~~[(b) A motortruck, truck tractor, bus or other vehicle that is registered pursuant to paragraph (e) of subsection 1 of NRS 482.482 or NRS 706.801 to 706.861, inclusive.]~~

Sec. 4. NRS 485.314 is hereby amended to read as follows:

485.314 1. ~~[On or before the 15th calendar day of each month, each]~~ **Each** insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 shall ~~[provide the Department with]~~ **maintain** a record of each such policy ~~[issued, amended or terminated in the previous month on the date the record is provided. The record must include:~~

- ~~(a) The name or identification number of each insured named in the policy of insurance;~~
~~(b) The make, year and vehicle identification number of each motor vehicle included in the policy of insurance;~~
~~(c) The number, effective date and expiration date of the policy of insurance; and~~
~~(d) Any other information required by the Department.~~

~~2. The record provided pursuant to subsection 1 must be submitted] in a [form] format approved by the Department and [may include, without limitation, magnetic tape or any other electronic medium deemed acceptable by the Department.~~

~~3.] provide the Department with access to the record.~~

2. The Department shall notify the Commissioner of Insurance if an insurer:

- (a) Fails to comply with subsection 1 ; ~~[or 2;]~~ or
 (b) In complying with subsection 1 , ~~[or 2,]~~ provides to the Department information that is false, incomplete or misleading.

Sec. 5. NRS 485.316 is hereby amended to read as follows:

485.316 1. Except as otherwise provided in ~~[subsections]~~ **subsection 2** ~~[and 3]~~ and NRS 239.0115, information which is maintained in the ~~[database]~~ **system** created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the ~~[database, upon request, to a]~~ **system to:**

- (a) A state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation ~~[-~~

~~3. The Department may only disclose information retrieved from the database to:~~

~~(a);~~

~~(b) An authorized insurer;~~

~~(c) A person:~~

~~(1) With whom the Department has contracted to provide services relating to the system created pursuant to NRS 485.313; and~~

~~(2) To whom the information is disclosed only pursuant to a nondisclosure or confidentiality agreement which relates to the information;~~

~~(d) A person who requests information regarding his own status;~~

~~[(b)] (e) The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;~~

~~[(e)] (f) A person who has a power of attorney from the person about whom the information is requested;~~

~~[(d)] (g) A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or~~

~~[(e)] (h) A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:~~

~~(1) Information for use in the accident report; and~~

~~(2) For each motor vehicle involved in the accident:~~

~~(I) The name and address of each registered owner;~~

~~(II) The name of the insurer; and~~

~~(III) The number of the policy of liability insurance.~~

~~[4.] 3. A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~[5.] 4. As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.~~

~~Sec. 6. NRS 485.317 is hereby amended to read as follows:~~

~~485.317 1. [Subject to the limitations set forth in this subsection and subsection 2, the] *The* Department shall ~~[, at least monthly,]~~ ~~[compare the current registrations of motor vehicles to the information in the database created pursuant to NRS 485.313 to]~~ verify that each motor vehicle ~~[-~~~~

~~(a) Which is newly] *which is* registered in this State ~~[- or~~~~

~~(b) For which a policy of liability insurance has been issued, amended or terminated,~~

~~→] is covered by a policy of liability insurance as required by NRS 485.185.~~

~~[In identifying a motor vehicle for verification pursuant to this subsection, the Department may, if the motor vehicle was manufactured during or after 1981, use only the last eight digits of the vehicle identification number. In comparing the vehicle identification number of a motor vehicle to the vehicle~~

identification number in a policy of liability insurance, to determine if the two vehicle identification numbers match, the Department may find that the two vehicle identification numbers match if no fewer than seven of the last eight digits of the two vehicle identification numbers match.]

2. Except as otherwise provided in this subsection, the Department may use any information to verify ~~[, pursuant to subsection 1,]~~ whether ~~[the]~~ a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If ~~[, pursuant to subsection 1,]~~ the Department ~~[determines]~~ *is unable to verify* that a motor vehicle is ~~[not]~~ covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a ~~[form for verification]~~ *request for information* by first-class mail to ~~[each]~~ *the* registered owner ~~[that it determines has not maintained the insurance required by NRS 485.185.]~~ *of the motor vehicle*. The owner shall ~~[complete the form with]~~ *submit* all the information which is requested ~~[by]~~ *to* the Department ~~[, including whether he carries an owner's or operator's policy of liability insurance or a certificate of self insurance, and return the completed form]~~ within 20 days after the date on which the ~~[form]~~ *request for information* was mailed by the Department. If the Department does not receive the ~~[completed form]~~ *requested information* within 20 days after it mailed the ~~[form]~~ *request* to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless ~~[he submits a completed form to]~~ the Department *is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185*, within 15 days after the date on which the notice was sent by the Department, his registration will be suspended pursuant to subsection ~~[5. This subsection does not prohibit an authorized agent of the owner from providing to the Department:~~

~~(a) The information requested by the Department pursuant to this subsection.~~

~~(b) Additional information to amend or correct information already submitted to the Department pursuant to this subsection.~~

~~4. When the Department receives a completed form for verification, it shall verify the information on the form.~~

~~5.]~~ 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the ~~[form for verification set forth in subsection 3 is:~~

~~(a) Not returned to the Department by the registered owner or his authorized agent within the period specified in that subsection;~~

~~(b) Returned to the Department by the registered owner or his authorized agent and the Department is not able to verify the information on the form; or~~

~~(e) Returned by the registered owner or his authorized agent with an admission of having no insurance or without indicating an insurer or the number of a motor vehicle liability policy or a certificate of self insurance.~~

~~6. If the Department suspends a registration pursuant to subsection 5 because:~~

~~(a) Neither the owner nor his authorized agent returned a form for verification within the specified period or the owner or his authorized agent returned a form for verification that was not completed sufficiently, and the owner or his authorized agent, thereafter:~~

~~(1) Proves to the satisfaction of the Department that there was a justifiable cause for his failure to do so;~~

~~(2) Submits a completed form regarding his insurance on the date stated in the form mailed by the Department pursuant to subsection 3; and~~

~~(3) Presents evidence of current insurance; or~~

~~(b) The owner or his authorized agent submitted to the Department a form for verification containing information that the Department was unable to verify and, thereafter, the owner or his authorized agent presents to the Department:~~

~~(1) A corrected form or otherwise verifiable evidence setting forth that the owner possessed insurance on the date stated in the form; and~~

~~(2) Evidence of current insurance;~~

~~the Department shall rescind its suspension of the registration if it is able to verify the information on the form or the other evidence presented. The Department shall not charge a fee to reinstate a registration, the suspension of which was rescinded pursuant to this subsection. For the purposes of this subsection, "justifiable cause" may include, but is not limited to, the fact that the owner did not receive the form mailed by the Department pursuant to subsection 3.~~

~~7. Except as otherwise provided in subsections 8 and 9, if a registered owner whose registration is suspended pursuant to subsection 5, failed to have insurance on the date specified in the form for verification,] Department cannot verify the coverage of liability insurance required by NRS 485.185.~~

~~5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon [filing by the registered owner of evidenee] **verification** of current insurance and payment of the fee for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.~~

~~[&] 6. If a registered owner proves to the satisfaction of the Department that his vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate his registration and, if applicable, reissue his license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate his registration or~~

reissue his license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

~~{9.}~~ 7. If the Department suspends the registration of a motor vehicle pursuant to subsection ~~{5}~~ 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that he was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

↪ The Department shall adopt regulations to carry out the provisions of this subsection.

~~{10.}~~ ~~{7.}~~ 8. For the purposes of verification of insurance by the Department pursuant to this section, a motor vehicle shall be deemed to be covered by liability insurance unless the motor vehicle is without coverage for a period of more than 7 days.

Sec. 7. This act becomes effective:

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

2. On February 1, 2010, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 88.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 64.

AN ACT relating to sexual offenses; establishing a civil remedy for a person who was a victim of a sexual offense which was used to promote child pornography; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill establishes a civil cause of action for a person who, as a minor, was a victim of a sexual offense where any sexual portrayal of the offense was used to promote child pornography. A victim who prevails in such an action may recover his actual damages, which are deemed to be at least \$150,000, plus attorney's fees and costs. ~~Upon the victim's request, the~~

~~Attorney General may bring or maintain an action on behalf of the victim.]~~

Section 3 of this bill establishes the statute of limitations for such an action.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto a
new section to read as follows:

1. Any person who, while a minor, was a victim of a sexual offense of which any sexual portrayal of such offense was used to promote child pornography and who suffered personal or psychological injury as a result may bring an action against any person who promoted or possessed the child pornography, regardless of whether the victim is now an adult.

2. A victim who prevails in an action brought pursuant to this section may recover his actual damages, which shall be deemed to be at least \$150,000, plus attorney's fees and costs.

3. A victim may request to use a pseudonym instead of his name in all court proceedings and records related to an action brought pursuant to this section. Upon notification that a victim has requested to use a pseudonym, the court shall ensure that the pseudonym is used in all court proceedings and records.

4. It is not a defense to a cause of action under this section that a defendant did not know the victim or did not personally engage in the sexual conduct which involved the victim and which is depicted in the child pornography.

~~*5. Upon the request of the victim the Attorney General may bring or maintain an action on behalf of any victim pursuant to this section. All damages awarded in any action brought pursuant to this section belong to the victim, but the Attorney General may seek and recover from the defendant reasonable attorney's fees and costs.*~~

~~*5.*~~ *5. An action may be brought pursuant to this section regardless of whether any person has been prosecuted or convicted of a sexual offense involving the victim.*

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

(a) "Child pornography" means a violation of NRS 200.710 to 200.730, inclusive.

(b) "Sexual offense" means a violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230.

Sec. 2. NRS 200.700 is hereby amended to read as follows:

200.700 As used in NRS 200.700 to 200.760, inclusive, **and section 1 of this act**, unless the context otherwise ~~provides~~ **requires**:

1. "Performance" means any play, film, photograph, computer-generated image, electronic representation, dance or other visual presentation.

2. "Promote" means to produce, direct, procure, manufacture, sell, give, lend, publish, distribute, exhibit, advertise or possess for the purpose of distribution.

3. "Sexual conduct" means sexual intercourse, lewd exhibition of the genitals, fellatio, cunnilingus, bestiality, anal intercourse, excretion, sado-masochistic abuse, masturbation, or the penetration of any part of a person's body or of any object manipulated or inserted by a person into the genital or anal opening of the body of another.

4. "Sexual portrayal" means the depiction of a person in a manner which appeals to the prurient interest in sex and which does not have serious literary, artistic, political or scientific value.

Sec. 3. NRS 11.215 is hereby amended to read as follows:

11.215 1. Except as otherwise provided in *subsection 2 and* NRS 217.007, an action to recover damages for an injury to a person arising from the sexual abuse of the plaintiff which occurred when the plaintiff was less than 18 years of age must be commenced within 10 years after the plaintiff:

- (a) Reaches 18 years of age; or
 - (b) Discovers or reasonably should have discovered that his injury was caused by the sexual abuse,
- ↪ whichever occurs later.

2. ***An action to recover damages pursuant to section 1 of this act must be commenced within 3 years after the occurrence of the following, whichever is later:***

- (a) The court enters a verdict in a related criminal case; or***
- (b) The victim reaches the age of 18 years.***

3. As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 93.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 23.

AN ACT relating to crimes; revising the definition of the crime of assault; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the definition of the crime of assault by expanding the current definition to include unlawfully attempting to ~~cause bodily harm to~~ **use physical force against** another person. ~~Through the use of force, the attempted use of force or the threatened use of a deadly weapon.~~

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

Section 1. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means ~~[intentionally]~~:

(1) **Unlawfully attempting to ~~cause bodily harm to~~ use physical force against another person ~~[through the use of force, the attempted use of force or the threatened use of a deadly weapon];~~ or**

(2) **Intentionally** placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon ~~[]~~ or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon [§] or the present ability to use a deadly weapon, 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, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event [§] and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon [§] or the present ability to use a deadly weapon, then 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, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon [§] or the present ability to use a deadly weapon, then 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, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 100.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 148.

AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising

provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) **Section 1** of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) **Section 2** of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. Section 2 also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 3** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if ~~good cause~~ reasonable evidence of noncompliance concerning the educational progress exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. Section 4 of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) **Section ~~4~~ 5** of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly. **Section ~~4~~** also provides that to determine the maximum amount of administrative costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections ~~[5] 6~~ and ~~[7] 9~~ of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303)

The Department of Education is required to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section ~~[6] 8~~ of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 7 of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

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

Section 1. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:

1. Investigate any claim against any school fund or ~~[separate]~~ *an* account established under NRS 354.603 , **386.570 or 392A.083, as applicable**, whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor ~~[]~~ , ***the sponsor of the charter school or the Department.*** If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees , ***the governing body of the charter school or the governing body of the university school for profoundly gifted pupils*** who drew ***or authorized*** the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees , ***governing body of the charter school or governing body of the university school for profoundly gifted pupils*** draw a check or order in payment of the claim from ~~[a separate]~~ *an* account established under NRS 354.603 ~~[]~~ , **386.570 or 392A.083, as applicable**. If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor , ~~[or]~~ the board of trustees , ***the governing body of the charter school or the governing body of the university school for profoundly gifted pupils, as applicable***, to draw his warrant or its check or order on an account established under NRS 354.603 , **386.570 or 392A.083, as applicable**, for the claim, and the county auditor , ~~[or]~~ the board of trustees

or the appropriate governing body shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, ***governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils*** and enforce the uniform method of keeping the financial records and accounts of school districts ~~[]~~, ***charter schools and university schools for profoundly gifted pupils***.

3. Inspect the school fund accounts of the county auditors of the several counties ~~[]~~ and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect the ~~[separate]~~ accounts established by :

(a) ***The*** boards of trustees under NRS 354.603 ~~[]~~ and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) ***The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.***

(c) ***The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.***

Sec. 2. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3***, if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school, ***subject to the approval of the sponsor of the charter school***, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

- (a) Charter school;
- (b) Employees of the charter school; and
- (c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. ***If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.***

4. The governing body of the charter school ***or the sponsor of the charter school*** may, to the extent practicable, provide financial compensation to the administrator or person appointed ~~[pursuant to subsection 2]~~ to carry out the provisions of this section. ***If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive***

reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

Sec. 3. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ **reasonable evidence of noncompliance concerning the educational progress of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or ~~[good cause]~~ if reasonable evidence of noncompliance concerning the educational progress of the charter school exists based upon the annual report, ~~[for an annual performance audit.]~~ the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:**

(a) **May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.**

(b) **Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.**

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 4. **NRS 386.560 is hereby amended to read as follows:**

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~charter school is located~~ pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

↪ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~charter school is located~~ pupil resides shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

↪ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

~~[Sec. 4.]~~ **Sec. 5.** NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~[a]~~ ***each*** school ~~[year.]~~ ***quarter***, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school ~~[year.]~~ ***quarter*** if the sponsor provided administrative services during that school ~~[year.]~~ ***quarter***. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a

charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 [] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 [] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 [] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 [] , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general

public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~Sec. 5.~~ **Sec. 6.** NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) ~~For each licensed employee and nonlicensed teacher employed by the charter school on October 1 of that year:~~

~~(1) The amount of salary of the employee; and~~

~~(2) The designated assignment, as that term is defined by the Department, of the employee.~~

~~(c)~~ For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

~~(d) The count of pupils who are enrolled in a charter school in:~~

~~(1) Kindergarten;~~

~~(2) Grades 1 to 12, inclusive; and~~

~~(3) Special education pursuant to NRS 388.440 to 388.520, inclusive.~~

~~(e)~~ (c) The actual expenditures of the charter school in the fiscal year immediately preceding the report.

~~(f)~~ (d) The proposed expenditures of the charter school for the current fiscal year.

~~(g)~~ (e) The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary

negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

~~[(h)]~~ (f) The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(i)]~~ (g) The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

~~[(j)]~~ (h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay ~~[(j)]~~ and the number of employees receiving that pay in the preceding and current fiscal years.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 7. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the State Board, board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the Department, the board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the State Board, the board of trustees or the institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the Department, the school district or the institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

~~[(Sec. 6)]~~ **Sec. 8. NRS 387.206 is hereby amended to read as follows:**

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula *for each school district and a*

formula for each charter school for determining the minimum amount of money that each school district *and each charter school* is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts ~~and~~ *and charter schools*.

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district *and each charter school* within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district *or charter school* must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district *and each charter school* has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303 ~~and~~ *and the charter school pursuant to NRS 386.600*.

4. Except as otherwise provided in subsection 5, if the Department determines that a school district *or charter school* has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district *or charter school* in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district *or charter school* is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district *or charter school* for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

6. *If the actual enrollment of pupils in a charter school is less than the enrollment included in the projections used in the charter school's final budget required pursuant to NRS 386.550, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.*

~~Sec. 7]~~ **Sec. 9.** NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

~~(b) The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.~~

~~(c)~~ The school district's actual expenditures in the fiscal year immediately preceding the report.

~~(d)~~ (c) The school district's proposed expenditures for the current fiscal year.

~~(e)~~ (d) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

~~(f)~~ (e) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

~~(g)~~ (f) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~(h)~~ (g) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

~~[(4)]~~ (h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

~~[(4)]~~ (i) The expenditures from the account created pursuant to subsection ~~[3]~~ 4 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year ~~[1]~~ and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

~~[Sec. 8.]~~ **Sec. 10.** NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive.

3. If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.

4. All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in *an account with* a bank, credit union or other financial institution in this State.

5. The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

6. To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

7. Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be

paid to the university school 30 days before the apportionments are otherwise required to be made.

8. If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

9. If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~Sec. 9.]~~ **Sec. 11.** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 107.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 99.

SUMMARY—Creates the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services. (BDR 40-208)

AN ACT relating to public health; creating the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services; prescribing the duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 8 and 9 of this bill create the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services and prescribe the duties of the Committee. **Section 10** of this bill authorizes the Health Division to enter into contracts and to apply for and accept gifts, grants, donations and bequests to carry out the provisions of this bill.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Committee" means the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease created by section 8 of this act.*

Sec. 4. *"Hospital" has the meaning ascribed to it in NRS 449.012.*

Sec. 5. *"Primary prevention" means the treatment of risk factors for stroke, heart disease and other vascular disease in the general population before the onset of any symptoms.*

Sec. 6. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 7. *"Secondary prevention" means the treatment of patients who have developed symptoms of stroke, heart disease or other vascular disease that is designed to prevent the onset of additional symptoms and attacks of the condition.*

Sec. 8. 1. *The Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease is hereby created within the Health Division.*

2. *The Committee consists of the following members:*

(a) *A board-certified neurologist who is licensed to practice in this State and who is experienced in treating victims of stroke, appointed by the Administrator;*

(b) *A ~~physician~~ board-certified cardiologist who is licensed to practice in this State and who ~~works in an emergency room,~~ is experienced in treating victims of heart disease and heart attacks, appointed by the Administrator;*

(c) *A provider of emergency medical services, appointed by the Administrator;*

(d) *A representative of the Health Division whose primary responsibilities relate to the licensure and certification of persons who provide emergency medical services, appointed by the Administrator;*

(e) *A representative of the American Heart Association or its successor, appointed by the Administrator;*

(f) *A person with knowledge or expertise in the prevention of chronic diseases, appointed by the Administrator;*

(g) *~~A representative of a school of public health of the Nevada System of Higher Education, appointed by the Administrator;~~*

~~(h)~~ *A representative from rural Nevada, appointed by the Administrator;*

~~##~~ *(h) A representative of hospitals in this State, appointed by the Administrator;*

~~##~~ *(i) A representative of collectively bargained plans, self-funded plans or other entities that pay claims under a contract for health insurance in this State, appointed by the Administrator;*

~~##~~ *(j) A registered nurse who is licensed to practice professional nursing in this State, appointed by the Administrator;*

~~[(k)]~~ (k) A person who is a representative of a population disproportionately affected by heart disease or stroke, appointed by the Governor;

~~[(l)]~~ (l) A person who is a survivor of stroke, appointed by the Majority Leader of the Senate; and

~~[(m)]~~ (m) A person who is a survivor of ~~stroke~~ heart disease, appointed by the Speaker of the Assembly.

3. The Committee shall elect a Chairman and a Vice Chairman from among its members to initial terms expiring on June 30, 2011. After the initial election, each of those officers holds office for a term of 1 year beginning on July 1 of each year and may be reelected to one or more successive terms. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall elect a replacement for the remainder of the unexpired term.

4. After the initial terms, each member of the Committee serves a term of 2 years beginning on July 1. ~~[(A)]~~ Except for a member appointed pursuant to paragraph (f) of subsection 2, a member may be reappointed to one or more successive terms.

5. A vacancy on the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.

6. The members of the Committee serve without compensation. If sufficient money is available, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Committee or otherwise engaged in the business of the Committee.

Sec. 9. 1. The Committee shall ~~not~~, to the extent money is available from any source:

(a) Adopt rules for its own governance.

(b) Meet at least once each calendar quarter and at other times upon the call of the Chairman.

(c) Make recommendations to the Health Division for the establishment of a comprehensive plan for the prevention of stroke, heart disease and other vascular disease in this State which must:

(1) Emphasize the development of a policy for the primary prevention and secondary prevention of stroke;

(2) Include recommendations to eliminate disparities in vascular health among populations that are disproportionately affected by stroke, heart disease and other vascular disease;

(3) Include recommendations concerning methods of increasing public knowledge and awareness relating to vascular health, including, without limitation, the prevention and treatment of stroke, heart disease and other vascular disease;

(4) Include recommendations concerning acute stroke treatment, including treatment during the hyperacute and emergency phases of stroke;

(5) *Include recommendations concerning the rehabilitation of patients and continuous quality improvement activities for medical facilities and providers of health care; and*

(6) *Include recommendations concerning the notification and response of emergency medical services ~~, f, and~~*

~~(7) *Not limit or otherwise address options concerning the transfer of a patient.*~~

(d) *On or before May 1 of each year, submit a written report to the Health Division summarizing the activities of the Committee and any recommendations it has made.*

(e) *In carrying out its duties, solicit suggestions and information from:*

(1) *Providers of emergency medical services;*

(2) *Associations of medical professionals;*

(3) *Hospitals;*

(4) *The Health Division;*

(5) *The Board of Medical Examiners and other boards responsible for issuing a license to a provider of health care; and*

(6) *Other persons with interests relating to vascular health as deemed necessary by the Committee.*

2. *In making the recommendations required by paragraph (c) of subsection 1, the Committee shall not consider or address any issue concerning the transfer of a patient.*

3. *A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.*

Sec. 10. 1. *The Health Division may:*

(a) *Enter into contracts for any service necessary to carry out the provisions of sections 2 to 10, inclusive, of this act; and*

(b) *Apply for and accept gifts, grants, donations and bequests from any source to carry out the provisions of sections 2 to 10, inclusive, of this act.*

2. *Any money collected pursuant to subsection 1 and any money appropriated to carry out the provisions of sections 2 to 10, inclusive, of this act:*

(a) *Must be deposited in the State Treasury and accounted for separately in the State General Fund; and*

(b) *Except as otherwise provided by the terms of a specific gift, grant, donation or bequest, must only be expended to carry out the provisions of sections 2 to 10, inclusive, of this act.*

3. *The Administrator shall administer the account. Any interest or income earned on the money in the account must be credited to the account.*

4. *Any claims against the account must be paid as other claims against the State are paid.*

Sec. 11. On or before July 1, 2010:

1. The Administrator of the Health Division of the Department of Health and Human Services shall appoint the following members to the Advisory Committee for the Prevention and Treatment of Stroke **and Heart Disease** created by section 8 of this act:

(a) One member each pursuant to paragraphs (a) to ~~[(e)]~~ **(f)**, inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2011.

(b) One member each pursuant to paragraphs ~~[(b)]~~ **(g)** to ~~[(e)]~~ **(j)**, inclusive, of subsection 2 of section 8 of this act to initial terms commencing on July 1, 2010, and expiring on June 30, 2012.

2. The Governor shall appoint to the Committee one member pursuant to paragraph ~~[(k)]~~ **(k)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

3. The Majority Leader of the Senate shall appoint to the Committee one member pursuant to paragraph ~~[(m)]~~ **(l)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

4. The Speaker of the Assembly shall appoint one member to the Committee pursuant to paragraph ~~[(n)]~~ **(m)** of subsection 2 of section 8 of this act to an initial term commencing on July 1, 2010, and expiring on June 30, 2012.

Sec. 12. 1. This section and section 11 of this act become effective on October 1, 2009.

2. Sections 1 to 10, inclusive, of this act become effective on July 1, 2010.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 124 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 188.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 26.

SUMMARY—Authorizes the Board of Regents of the University of Nevada to waive certain fees and tuition for ~~[a child, widow or widower of a person who was killed while serving in the Nevada National Guard.]~~ **certain persons.** (BDR 34-915)

AN ACT relating to education; authorizing the Board of Regents of the University of Nevada to waive certain fees and tuition for a child, widow or widower of a person who was killed while serving in the Nevada National Guard; authorizing the waiver of certain fees and tuition for the spouse or child of a person who is identified as a prisoner of war or missing in action while serving in the Armed Forces of the United States; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to waive certain fees for a member of the Nevada National Guard or a recruit for the Nevada National Guard. (NRS 396.544) Additionally, existing law requires the Board of Regents to pay certain fees and expenses for the dependent child of a police officer, firefighter, officer of the Nevada Highway Patrol or volunteer ambulance driver or attendant who was killed while performing his duties. (NRS 396.545) ~~(This)~~ Section 2 of this bill authorizes the Board of Regents to waive certain fees for a child, widow or widower of a person who was killed while performing his duties as a member of the Nevada National Guard. Section 3 of this bill authorizes the Board of Regents to waive certain fees for the spouse or child of a person who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces of the United States.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. The Board of Regents may grant a waiver of registration fees and laboratory fees for a child, widow or widower of a person who was killed while performing his duties as a member of the Nevada National Guard. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.

2. A person is eligible for a waiver pursuant to subsection 1 if he maintains at least a 2.0 grade point average, on a 4.0 grading scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used.

3. A child may use a waiver granted pursuant to this section for 10 years after he attains the age of 18 years or, if he enrolls in the System before the age of 18 years, for 10 years after the date of such enrollment. A widow or widower may use a waiver granted pursuant to this section for 10 years after the date of the death of the member.

4. The Board of Regents may request the Adjutant General to verify that a person is the child, widow or widower of a person who was killed

while performing his duties as a member of the Nevada National Guard. The Adjutant General shall, upon receiving such a request, notify the Board of Regents in writing concerning the status of that person.

Sec. 3. 1. The Board of Regents may grant a waiver of registration fees and laboratory fees for a spouse or child of a person who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces of the United States. For the purpose of assessing fees and charges against a person to whom such a waiver is granted, including, without limitation, tuition charges pursuant to NRS 396.540, the person shall be deemed to be a bona fide resident of this State.

2. A person is eligible for a waiver pursuant to subsection 1 if he maintains at least a 2.0 grade point average, on a 4.0 grading scale, each semester or the equivalent of a 2.0 grade point average if a different scale is used.

3. A spouse may use a waiver granted pursuant to this section for 10 years after the date on which the member of the Armed Forces was identified as a prisoner of war or missing in action. A child may use a waiver granted pursuant to this section for 10 years after he attains the age of 18 years or, if he enrolls in the System before the age of 18 years, for 10 years after the date of such enrollment.

4. The Board of Regents may request such documentation as it deems necessary to verify that a person is the spouse or child of a member of the Armed Forces of the United States who is identified as a prisoner of war or missing in action while performing his duties as a member of the Armed Forces.

~~[Sec. 2.]~~ Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 237.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 114.

AN ACT relating to juveniles; revising the provisions governing the certification of certain juveniles as adults for criminal proceedings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the certification of a child as an adult for criminal proceedings under certain circumstances. (NRS 62B.390) ~~If a child is charged with an offense that would have been a felony if committed by an adult and the child was 14 years of age or older at the time of allegedly committing the offense, the juvenile court may, but is not required to, certify the child as an adult, which is commonly referred to as "discretionary~~

certification.” Section 1 of this bill raises the threshold age at which a child may be certified as an adult under such discretionary certification from 14 years of age to 16 years of age.

~~Existing law also provides for~~ **Under the concept that is commonly referred to as** “presumptive certification,” ~~which requires~~ the juvenile court **is required** to certify a child for criminal proceedings as an adult if the child is charged with certain offenses and was 14 years of age or older at the time of allegedly committing the offense, unless an exception applies. (NRS 62B.390) One such exception to presumptive certification is when the juvenile court specifically finds by clear and convincing evidence that the actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child. The Nevada Supreme Court recently ruled that this exception to presumptive certification violates a child’s right against self-incrimination under the Fifth Amendment to the United States Constitution by requiring the child to admit to criminal conduct to challenge certification. (*In re William M.*, 124 Nev. Adv. Op. No. 95 (2008)) ~~Section 1 of this~~ **This bill** eliminates the exception to presumptive certification that was found unconstitutional by the Nevada Supreme Court and provides instead that the juvenile court is not required to certify the child as an adult if the child has substance abuse or emotional or behavioral problems that may be appropriately treated through the jurisdiction of the juvenile court. ~~Section 1~~ **This bill** also raises the threshold age at which a child may be certified as an adult under presumptive certification from 14 years of age to 16 years of age.

~~Finally, existing law provides for discretionary certification of a child who escapes or attempts to escape from a public or private facility for the detention or correctional care of children and who was 14 years of age or older at the time of escaping or attempting to escape. (NRS 62B.400) Section 2 of this bill raises the threshold age at which a child may be certified as an adult under such discretionary certification from 14 years of age to 16 years of age.~~

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

Section 1. NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

- (a) Is charged with an offense that would have been a felony if committed by an adult; and
- (b) Was 14 ~~16~~ years of age or older at the time the child allegedly committed the offense.

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was ~~[14]~~ **16** years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand his situation and the proceedings of the court or to aid his attorney in those proceedings; or

(b) ~~[The actions of the child were substantially the result of the substance abuse or emotional or behavioral problems of the child]~~ **The child has substance abuse or emotional or behavioral problems** and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

Sec. 2. ~~[NRS 62B.400 is hereby amended to read as follows:~~

~~62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:~~

~~(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and~~

~~(b) Escapes or attempts to escape from such a facility.~~

~~2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was [14] 16 years of age or older at the time of the escape or attempted escape and:~~

~~(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or~~

~~(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.~~

~~3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.~~

~~4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title. (Deleted by amendment.)~~

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that upon return from the printer, Assembly Bill No. 188 be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 327.

Bill read second time and ordered to third reading.

Assembly Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 112.

SUMMARY—Revises provisions governing ~~the requirements for~~ certain personnel who work with children with autism. (BDR 34-1024)

AN ACT relating to education; creating the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism; requiring that the boards of trustees of school districts and the

governing bodies of charter schools ~~for~~, to the extent money is available, ensure that certain personnel possess the skills and qualifications necessary to work with pupils with autism; ~~prescribing the qualifications for a paraprofessional who assists pupils with autism;~~ requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to provide grants of money to school districts and charter schools for programs of training of certain personnel.

Section ~~4~~ 4 of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. Section ~~5~~ 5 of this bill ~~prescribes the requirements for personnel~~ requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil ~~receive the appropriate preparation and training necessary to assist those persons.~~ ~~Section 4 of this bill requires that the parent or legal guardian of a pupil who is identified as being at risk for a diagnosis of autism be notified in a timely manner and referred to appropriate professionals for evaluation and treatment.~~ Section ~~7~~ 7 of this bill ~~prescribes the qualifications for a paraprofessional employed by a~~ requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that a paraprofessional who is employed by the school district or charter school who is assigned to work with a pupil with autism ~~receives the appropriate preparation and training necessary to serve those pupils.~~

Section ~~8~~ 8 of this bill requires the personnel of the Health Division of the Department of Health and Human Services who provide early intervention services to possess the knowledge and skills necessary to provide services to children with autism and their families.

Section 9 of this bill requires that any money received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist school districts with the training of personnel to assist pupils with autism be deposited in the Grant Fund.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~5~~ 7, inclusive, of this act.

Sec. 2. As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism.

Sec. 3. 1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in sections 4, 5 and 7 of this act and to provide assistance to licensed educational personnel who work with pupils with autism in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

~~{Sec. 2.}~~ *Sec. 4. {The} 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils. The training ~~must~~ may include, without limitation:*

~~{1.}~~ *(a) The characteristics of autism, including, without limitation, behavioral and communication characteristics;*

~~{2.}~~ *(b) Methods for ~~assessing,~~ determining, on a regular and consistent basis, the specific needs of a pupil with autism to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;*

~~{3.}~~ *(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism;*

~~{4.}~~ *(d) Approaches for use in the classroom to assist a pupil with autism with communication and social development; and*

~~{5.}~~ *(e) Methods of providing support to pupils with autism and their families.*

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or

other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism in accordance with this section.

~~{Sec. 3.}~~ Sec. 5. ~~{The}~~ To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil ~~{+}~~ receive the appropriate preparation and training:

1. ~~{Possess the knowledge and understanding of the scientific research and support for each method or approach that is available for the pupil and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not.}~~ On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, to determine best practices in the development of programs for pupils with autism; and

2. ~~{Possess the knowledge to accurately describe the research supporting each method or approach, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence; and~~

~~3. Provide}~~ To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in his development and advancement.

~~{Sec. 4.}~~ Sec. 6. ~~{The board of trustees of each school district and the governing body of each charter school shall ensure that the teachers and other educational personnel employed by the school district communicate in a timely manner to the parent or legal guardian of a pupil who is identified as being at risk for a diagnosis of autism and immediately notify and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies.}~~ ~~(Deleted by amendment.)~~

~~{Sec. 5.}~~ Sec. 7. 1. ~~{In addition to any other qualifications required by statute or regulation, a paraprofessional who is employed by}~~ To the extent money is available from the Grant Fund, the board of trustees of ~~{+}~~ each school district ~~{+}~~ and the governing body of ~~{+}~~ each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism ~~{must possess the following qualifications.}~~ receives the appropriate preparation and training to acquire:

(a) Knowledge of autism, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) *An understanding of the importance of building relationships between pupils with autism, other pupils and teachers or adults to encourage the independence of a pupil with autism; and*

(3) *The ability to determine the patterns of behavior of pupils with autism;*

(b) ~~*Demonstrated proficiency in providing*~~ *The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;*

(c) ~~*Demonstrated proficiency in adapting, modifying or structuring*~~ *The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;*

(d) *The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;*

(e) *The ability to accurately collect and record data on the progress of a pupil with autism and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and*

(f) ~~*Demonstrated proficiency in the*~~ *The ability to communicate effectively and consistently with pupils with autism using communication techniques designed for those pupils.*

2. ~~*The*~~ *To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism in accordance with this section.*

~~*Sec. 6.*~~ *Sec. 8.* Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Health Division shall ensure that all personnel employed by the Health Division who provide early intervention services possess the knowledge and skills necessary to serve children with autism, including, without limitation:*

(a) *The procedure for screening a child for autism at least once before the child attains the age of 2 years;*

(b) *The procedure for evaluating children who demonstrate behaviors which are consistent with autism;*

(c) *The procedure for enrolling a child in early intervention services upon determining that the child has autism;*

(d) *Methods of providing support to children with autism and their families; and*

(e) *The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.*

2. *The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism:*

(a) *Possess the knowledge and understanding of the scientific research and support for each method or approach that is available for the child and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;*

(b) *Possess the knowledge to accurately describe to parents and guardians the research supporting each method or approach, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;*

(c) *Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and*

(d) *Provide the parent or legal guardian with all options for treatment and intervention that may assist the child in his development and advancement.*

Sec. 9. Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 to assist school districts with the training of personnel to assist pupils with autism, the money must be deposited in the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism created by section 3 of this act.

~~{Sec. 7}~~ Sec. 10. ~~{This act becomes}~~ 1. This section and section 9 of this act become effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved that upon return from the printer, Assembly Bill No. 359 be rereferred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 393.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills 75, 96, 137, 164, 169, 180, 264, 280, 301, 306, 332, 412, 477; Assembly Joint Resolution No. 7; Senate Bills No. 38, 109; and Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to Melissa Burnham.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Lora Minter.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Julie Koch.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Anya Perez and Christina Perez.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Jim Clark.

On request of Assemblyman Conklin, the privilege of the floor of the Assembly Chamber for this day was extended to Laura Boehm.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Brenda Talley, Robin Munier, and Thalia Dondero.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica Kwok.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Burnham, Kristi Tucker, Sheila Campbell, and Shannon Ramirez.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Jacob Batchelor, Benita Owens, Karen Cooney, and Amy Henderson.

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Porsche Hughes.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to Tami Berg and Radium Guess.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Lyn Bennet, Sherry Loncar, Erin Lehman, Lindy Lehman, and Brynn Lehman.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Ann Lynch, Wendell Newman, and Chuck Saylor.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Charlene Gumber and Chelsea Reid.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Susan Myhre.

Assemblyman Ocegüera moved that the Assembly adjourn until Monday, April 6, 2009, at 11 a.m., and that it do so in memory of former Assemblyman Jim Banner.

Motion carried.

Assembly adjourned at 12:18 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly